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TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 2065

A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT TO PROVIDE ALASKA NATIVES WITH CERTAIN OPTIONS FOR THE CONTINUED OWNERSHIP OF LANDS AND CORPORATE SHARES RECEIVED PURSUANT TO THE ACT AND FOR OTHER PURPOSES

FAIRBANKS, AK, MAY 24, 1986
ANCHORAGE, AK, MAY 27, 1986
BETHEL, AK, JULY 10, 1986

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Committee on Energy and Natural Resources

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TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

SATURDAY, MAY 24, 1986

U.S. SENATE, SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES,

Fairbanks, AK.

The subcommittee met, pursuant to notice, in Fairbanks, AK, Hon. Malcolm Wallop presiding.

Present: Senators Wallop and Murkowski.

Also present: Tony Bevinetto, professional staff member.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. I want to wish everyone good morning. As nice as the day is, we ought to be outside, not in. I want to tell you how much of a privilege and a pleasure it is for me to be up here joining your Senator Murkowski in the hearing on a bill which has already, as I can tell in my less than 12 hours or 14 hours in Fairbanks, some considerable meaning from the numbers of people.

So we're gathered here today to hear your views on S. 2065 to amend the Alaska Native Claims Act to provide Alaska Natives with certain options for continued ownership of lands and corporate shares pursuant to the Act and for other purposes.

My name is Malcolm Wallop, and, despite what your newspaper says, I'm a Republican from Wyoming, not a Democrat from Wyoming. And I know that the paper has great respect for the strength and power of your Senior Senator, but it is unlikely that he would have been able to attract a Democrat up here to conduct a hearing on a bill of his.

But at any rate, be that as it may, I'm delighted to be here. My home State of Wyoming has many similarities with your great State, and I enjoy working with your Senators, Ted Stevens and Frank Murkowski, on a variety of mutual issues that affect our States.

As Chairman of the Public Lands, Reserved Water and Resource Conservation Subcommittee, I have come to appreciate the variety of unique issues that confront people in the State of Alaska.

These hearings represent the start of this bill's journey, wherever it may go, through Congress. The record of the hearings held by Senator Murkowski in Hoonah and Barrow will be included in the Committee files.

Your testimony today will be used to inform us of your desires and concerns, and help us design whatever changes may be necessary.

Let me turn to the mechanics of the hearing. Now, out of respect for everyone who wishes to testify—and there are 140 names of people who have requested to testify—I'm going to restrict the time to three minutes so that we can get everybody through. Now, that seems a very short time. Let me assure you that the entire written statement that you have will be in the record completely. But it is a holiday weekend and those that come later in the day are entitled to consideration and to be heard as well as those who come early in the day. And I know of no other way to get everybody included than to limit the amount of oral testimony. We will receive any additions that you may wish to have put into the record in their entirety.

The green light up here will mean go; and the yellow means that there's one minute remaining; and red means would you please give me a summary statement of your statement and we'll put the whole complete statement in the record.

The witnesses are arranged to testify in panels. This witness list is posted outside and is the order of testimony. If you need a witness list, staff would be happy to provide one for you. The printed hearing record will be sent, upon request, if you provide your name and address on the mailing labels on the table at the side as indicated. I must note that due to funding cut-backs, copies of the hearing record may be limited.

Please hold onto your testimony until we call you to the witness table. Staff will collect them at that time.

I genuinely look forward to hearing your testimony today. If anybody would like to provide additional testimony or you know anyone who would and is not here today, your written comments are welcome and hold as much meaning to us as those oral comments. You can send those to Senator Murkowski's office in Washington or to Senator Murkowski's State offices.

This legislation is important to Alaskans, and I look forward to working with you during the course of the process.

With that, I would ask my colleague, Frank Murkowski, if he has any statement.

[The text of S. 2065 follows:]

99TH CONGRESS
2D SESSION

S. 2065

To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6 (legislative day, JANUARY 27), 1986

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. Congress finds and declares that—

(a) the Alaska Native Claims Settlement Act, was enacted to achieve a fair and just settlement of all claims by Natives and Native groups based on aboriginal land claims in a manner consistent with the real economic and social needs of Alaska Natives, including maximum participation by Native people in decisions which affect their rights and property;

(b) the corporate model adopted by the Alaska Native Claims Settlement Act is frequently ill-adapted to the reality of life in many Alaskan Native villages and to traditional native cutural values;

(c) although the Congress mandated that the settlement be implemented rapidly and without litigation, the complexity of the land conveyance process and frequent and costly litigation has delayed the implementation of the settlement and significantly diminished its value;

(d) providing Alaska Natives maximum participation in decisions affecting their rights and property necessitates that the Alaska Native Claims Settlement Act be amended to provide the shareholders of each Native Corporation an opportunity to implement the settlement in the manner which they determine is best suited to their particular circumstances and needs, including, but not limited to, an opportunity to decide the manner in which Alaska Natives born after December 18, 1971, should participate in the settlement and whether the business corporation is the most appropriate entity to hold legal title to lands conveyed in partial settlement of aboriginal claims; and

(e) providing Alaska Natives maximum participation in decisions affecting their rights and property further necessitates that the Alaska Native Claims Settlement Act be amended to continue restrictions on the transfer of stock of Native corporations until such time as the shareholders of a corporation may vote to terminate such restrictions.

SEC. 2. Section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602) is hereby amended by the addition of the following additional subsections:

"(n) 'Native common stock' means the stock of a Native Corporation issued pursuant to subsections 7(g) (1) and (3) of this Act which carries or initially carried with it the rights and restrictions provided for in section 7(h); and

"(o) 'Descendant of a Native' means a lineal descendant of a Native or of an individual who would have been a Native if he or she were alive on December 18, 1971, or an adoptee of a Native or descendant of a Native whose adoption is recognized at law or in equity.".

SEC. 3. Section 7(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)) is hereby amended by (i) numbering the existing subsection paragraph (1) and adding the word "Native" after the words "number of shares of" and before the words "common stock" and adding the words "Native common" after the words "one hundred shares of" and before the word "stock" and (ii) adding the following paragraphs:

"(2)(A) Notwithstanding any other provision of this Act and in addition to any other existing authority, if authorized by amendment to its articles of incorporation after the effective date of this Act, any Regional Corporation may issue such shares of stock divided into such classes and series within classes, with such preferences, limitations, and relative rights, including, without limitation, dividend rights, voting rights, liquidation preferences, and rights to share in distributions made to stockholders under subsections (j) and (m) of this section, as may be provided in its articles of incorporation or an amendment thereto. Notwithstanding any provision of State or other Federal law, such shares may be subject to inalienability restrictions not in excess of the restrictions provided for in paragraph (1) of section 7(h), as provided in the articles of incorporation or an amendment thereto. Notwithstanding any provision of State or other Federal law, issuance of one or more classes of such stock may be restricted to (i) Natives who have reached the age of sixty-five or (ii) any other identifiable group of Natives: *Provided,* That such group is defined in terms of general applicability, and is not in any way defined by reference to a place of residence, family or position as an officer, director, employee of a Native Corporation or shareholder of a Native Corporation other than the issuing Corporation. Any such shares of stock may be issued to holders of Native common stock or others for such consideration as may be permitted by law.

"(B) Any amendment to the articles of incorporation of a Regional Corporation which permits the issuance of classes and series of stock other than Native common stock shall specify the maximum number of shares that may be issued in any such class or series, and the maximum number of votes that may be held by shares of such class or series. During any period in which the restrictions on alienation of Native common stock are in effect no stock may be issued under this section to a group of individuals composed only of employees, officers and/or directors of the Native Corporation. If such amendment permits the issuance of classes or series of stock which, when issued, singly or in combination, may cause the outstanding shares of Native common stock bearing the restrictions on alienation provided for in paragraph (1) of section 7(h) to represent less than a majority of the voting power of all stock in the Native Corporation, the stockholders of such corporation shall be expressly so advised in the proxy statement or other informational material distributed in advance of their vote upon the amendment. In no event may shares of stock other than Native common stock be issued more than thirteen months after the date of stockholder vote authorizing the issuance of such stock if, upon the issuance of such stock and as a result of such issuance, the outstanding shares of Native common stock bearing the restrictions on alienation provided for in paragraph (1) of section 7(h) will represent less than a majority of the voting power of all stock in the Regional Corporation: *Provided,* That the restriction set forth in this sentence shall be of no further force or effect if shares of stock have been lawfully issued pursuant to this paragraph which have caused the shares of Native common stock bearing the restrictions on alienation provided for in paragraph (1) of section 7(h) to represent less than a majority of the voting power of all stock in the Regional Corporation or if the restrictions upon alienation of Native common stock provided for in paragraph (1) of section 7(h) have expired or been terminated by vote of the stockholders.

"(C) Notwithstanding the issuance of additional shares of stock or a new class of stock pursuant to this paragraph, the Regional Corporation shall continue to apply the ratio last computed under subsection (m) before the effective date of this Act for purposes of distributing funds under subsections (j) and (m). If shares of different classes or series have been issued pursuant to this paragraph to the class of stockholders who, prior to the effective date of this Act were the class of stockholders holding nonvillage stock ("nonvillage stockholders"), distributions payable under subsections (j) and (m) shall be made with respect to such classes or series in accordance with the rights, if any, of each class or series to share in such distributions as provided in the articles of incorporation or any amendment thereto and, if so provided in the articles of incorporation or an amendment thereto, the right to share in such distributions may be established as a right or security separate from any other shares issued to such nonvillage stockholders. Common stock issued pursuant to this subsection which carries the same rights and restrictions provided for in section 7(h) or which is issued in substitution for Native common stock shall be deemed to be Native common stock as long as all such rights and reservations are in effect with respect thereto.

"(3) Notwithstanding any provision of Federal or State law to the contrary and in addition to any other existing authority, if authorized by an amendment to the articles of incorporation, a Regional Corporation may issue up to one hundred shares of additional Native common stock to:

"(A) Natives born after December 18, 1971;

"(B) Natives who have attained the age of sixty-five; and

"(C) Natives who were eligible for enrollment pursuant to section 5 but who were not so enrolled.

for no consideration or for such consideration and upon such terms and conditions as may be specified in the amendment to the articles of incorporation or in the resolution or resolutions providing for the issuance of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation: *Provided,* That the issuance of additional shares of Native common stock or other stock pursuant to this subsection shall have no effect on the division and distribution of revenues pursuant to subsection (i) of this section.".

SEC. 4. Section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) is further amended to read as follows:

"(1) Except as otherwise provided in paragraphs (3) and (4) of this subsection, Native common stock of a Regional Corporation issued pursuant to subsections (g) (1) and (3) of this section shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the Regional Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State of Alaska, except that until the termination of the restrictions by the shareholders under paragraph (2) of this subsection such Native common stock, inchoate rights thereto, and any dividends paid or distributions made with respect thereto, may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, treated as an asset in a bankruptcy estate, or otherwise alienated, whether such Native common stock is held by Natives or descendants of Natives or by persons who are neither Natives nor descendants of Natives: *Provided*, That such limitation shall not apply to transfers of Native common stock if and to the extent that any such transfers are made to Natives or to descendants of Natives pursuant to a court decree of separation, divorce or child support or by a stockholder who is a member of a professional organization, association, or board which limits the availability of that stockholder to practice his profession because of holding stock issued under this chapter.

"(2) The restrictions on the alienation of Native common stock described in paragraph (1) shall continue indefinitely until such time as the shareholders of a Regional Corporation vote to terminate such restrictions. Except with respect to Bristol Bay Native Corporation and any Village Corporation in the Bristol Bay region, which may by resolution of its board of directors adopted within one year after the effective date of this Act elect to follow the procedures set forth in section 7b, a vote on the question of whether to terminate restrictions on the alienation of Native common stock, including a vote by any such corporation if it does not solely elect, shall be conducted pursuant to the following procedure:

"(A) On or before December 18, 1991, or at any time thereafter, the shareholders of a Regional Corporation may vote whether to terminate the restrictions on alienation described in paragraph (1). In conducting the vote, the board of directors of the Regional Corporation shall have the option of seeking shareholder approval either of a resolution determining that such restrictions be continued or of a resolution that such restrictions shall be terminated. Continuation of the restrictions on alienation for such period of time as the shareholders may approve is hereby authorized.

"(B) If the shareholders reject a resolution that the restrictions on alienation be continued, such restrictions shall be terminated in the manner described in subparagraph (D). In the event that the shareholders reject a resolution that the restrictions be terminated, such restrictions shall be extended for an indefinite period, subject to the provisions of subparagraph (C).

"(C) A resolution adopted pursuant to this paragraph shall be considered to be an amendment to the articles of incorporation of the Regional Corporation for purposes of paragraph (3) of this subsection. Adoption of a resolution to continue the restrictions on alienation or rejection of a resolution to terminate such restrictions shall not preclude the shareholders of the

Regional Corporation from later approving a resolution to terminate the restrictions.

"(D) A resolution to terminate restrictions on the alienation of Native common stock shall state the date or describe the specific events upon which the restrictions will terminate if the resolution is approved. If a resolution to continue such restrictions is defeated, the shareholders may also adopt a resolution which establishes the date or describes the specific events upon which the restrictions shall terminate. If a resolution which establishes the date or describes the specific events upon which the restrictions shall terminate is not adopted, the restrictions shall terminate one year from the date of the vote disapproving the resolution to continue such restrictions. On the date of termination all Native common stock previously issued shall be deemed canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share, subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or in agreements between the corporation and individual shareholders.

"(3) Upon the death of any holder of Native common stock, ownership of such stock shall be transferred in accordance with his last will and testament or under the applicable laws of intestacy: *Provided,* That in the event that stock is transferred to a person not a Native or a descendant of a Native, the Regional Corporation shall have an option to purchase such stock: *Provided further,* That this paragraph shall not restrict the devise or intestate disposition of any shares of Native common stock of a Regional Corporation whose shareholders have amended the articles of incorporation to remove the limitation on alienation of such stock otherwise imposed by paragraph (1) of this subsection.

"(4) Notwithstanding any other provision of this section, the Regional Corporation may, if authorized by an amendment to its articles of incorporation, purchase, and for that purpose its shareholders may sell, any or all shares of its Native common stock then issued and outstanding with payment out of unreserved or unrestricted earned surplus of the corporation, or, if there is no earned surplus, out of its net profits for the fiscal year in which the purchase is being made and the preceding fiscal year except when the corporation is unable to pay its debts as they become due in the usual course of business; in determining such net profits, the net profits derived from the exploration or liquidation of timber resources and subsurface estate may be determined without consideration of depletion of those assets resulting from lapse of time, consumption, liquidation, or exploration of those assets. Shares of stock purchased pursuant to this paragraph shall become nonvoting treasury stock, or may be canceled by the Regional Corporation in accordance with law.

"(5) The lapse of the right to vote in the holder of Native common stock upon a transfer to him by inheritance or otherwise prior to the effective date of this Act may be restored by the adoption of an amendment to the articles of incorporation to such effect: *Provided,* That such voting rights may be restored only with respect to shares of Native common stock held by a Native or a descendant of a Native.

"(6) Notwithstanding any provision of Alaska law, other than those provisions which relate to proxy statements and proxy solicitations and except as otherwise provided in section 7b—

"(A)(i) Any amendment to the articles of incorporation of a Regional Corporation authorized by this subsection or subsection (g) of this section, a transfer of assets made pursuant to section 7a, and a resolution described in paragraph 2(C) of this subsection or subparagraph (B) of this paragraph shall be approved in the following manner:

"(a) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual or a special meeting of shareholders.

"(b) A written or printed notice setting forth the proposal or a summary of the changes to be effected, or the proxy statement if one is required under subclause (a) of this clause shall be given to each shareholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting, either personally or by mail.

"(c) At the meeting a vote of the shareholders entitled to vote shall be taken on the proposal and it shall be approved if it receives the affirmative votes required under clause (ii).

"(d) A number of proposals may be submitted to the shareholders and voted upon at one meeting.

"(e) With respect to any amendment of the articles of incorporation of a Regional Corporation authorized by this subsection or subsections (g)(1) and (g)(3) of this section, the effect of which would be to end the restrictions on alienation for all classes of stock in the corporation, if the holders of at least one-third of the outstanding shares of Native common stock entitled to be voted petition the board of directors to adopt and submit to a vote of the shareholders a resolution to make that amendment to the articles of incorporation, the board of directors shall adopt the resolution and submit it to a vote of the shareholders as provided for in subclauses (a)–(d) of this clause: *Provided,* That a person or group seeking to obtain signatures on such a petition shall, not less than ten days before starting to obtain such signatures, file a written statement with the board of directors and the State agency having jurisdiction over proxy statements and solicitations, which statement shall contain no materially false or misleading statement or omission with respect to the proposed amendment, shall disclose the identity or identities of the person or persons organizing the effort to obtain signatures on the petition, and shall also fairly and fully disclose the nature and efforts of the proposed amendment if it is adopted: *Provided further,* That if, after ten days from such filing of the statement, there is no judicial or administrative order then in effect which directs that corrections be made to the statement or enjoins the solicitation of shareholders' signatures on the petition, then shareholders may begin to be solicited to sign the petition, and a copy of the statement shall be given to each shareholder before that shareholder is solicited to sign the petition.

"(ii) In order for an amendment to the articles of incorporation, land transfer or resolution to be approved pursuant to this paragraph, the proposal must be voted upon by at least 51 per centum of the outstanding shares of Native common stock entitled to be voted and must receive the affirmative vote of at least 50 per centum of the outstanding shares of Native common stock entitled to be voted or an affirmative vote greater than 50 per centum of the shares voted, or both to approve any such proposal;

"(iii) Any other amendment to the articles of incorporation not specified in clause (i) of this subparagraph shall be approved in accordance with the articles of incorporation, bylaws or applicable law.

"(B) If the results of a shareholder vote under paragraph (2) of this subsection is the extension of restrictions against alienation, a stockholder who voted against the extension or in favor of the termination of restrictions, as the case may be, may demand and receive payment from the corporation for all of his or her shares but only if contemporaneously with the vote the shareholders of the Regional Corporation adopt a resolution expressly providing for such right. Except as otherwise provided in subparagraph (D), the procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed if such right is made available pursuant to this paragraph.

"(C) The stockholders of a Regional Corporation who adopt a resolution pursuant to subparagraph (B) of this paragraph may also provide in such resolution that the Native common stock restrictions for the same period then applicable to the stock, or that the value of the land or any interest therein received by the Regional Corporation pursuant to this chapter, which is committed by the corporation to Native traditional or cultural uses or is of speculative or unknown value on the date such resolution is adopted, shall be excluded by the dissenting stockholder, the Regional Corporation and any court in the determination of the fair value of the shares of Native common stock to be purchased from such stockholder by the Regional Corporation.

"(D) The stockholders of a Regional Corporation who adopt a resolution pursuant to subparagraph (B) of this paragraph may also provide in such resolution that payment to a dissenting shareholder shall be made by the corporation through issuance to such shareholder of a nonnegotiable debenture in the principal amount of the payment due, which debenture shall be secured either by a payment bond issued by an insurance company or financial institution, by the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face amount of the debenture, or by a lien upon the real property interests of the corporation other than lands or any interest therein which are committed by the corporation to Native traditional or cultural uses and, in the case of a Regional Corporation, its timber resources and subsurface estate. The debenture shall bear interest, payable semiannually, beginning as of the date of the corporation elected to extend stock restrictions at the rate applicable on such date to obligations of the United States having a comparable maturity. The principal amount of the debenture and any undistributed interest shall be payable at any time at the option of the corporation or, if not so called, shall be paid to the former shareholder, or his heirs, on December 18, 1991, or, if the stock restrictions otherwise would have expired on a later date, then on such date or five years after the date of the election, whichever first occurs.

"(7) If the results of a shareholder vote under paragraph (2) of this section or subsection (a) of section 7b is the removal of restrictions on alienation otherwise imposed by paragraph (1) of this subsection, the Regional Corporation may nevertheless, prior to the termination of such restrictions, impose any restrictions upon native common stock permitted under applicable law as well as—

"(A) the denial of voting rights to any holder of Native common stock who is not a Native or a descendant of a Native, and

"(B) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's Native common stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ or attachment, judgment execution, pledge or other encumbrance.".

SEC. 5. The Alaska Native Claims Settlement Act is further amended by adding a new section to read as follows:

"SEC. 7a. (a)(1) A Native Corporation may convey some or all of its assets, including title to the surface and/or subsurface estate of land, or any interest therein, to a qualified transferee entity for no consideration or for such consideration as its shareholders may approve.

"(2) A qualified transferee entity is an entity organized pursuant to or recognized by State or Federal law which—

"(A) has a membership composed of persons whose interest in the entity is not transferable;

"(B) provides membership in the entity for every person who holds Native common stock in the Native Corporation making the transfer of assets on the day before the date of such transfer, which membership shall terminate at such stockholder's death; and

"(C) in addition to the persons described in paragraph (B) of this subsection, accepts as new members only Natives and descendants of Natives.

"(3) In addition to the authority and powers vested in such entity by State or Federal law, a qualified transferee entity is authorized to—

"(A) limit its membership to Natives and descendants of Natives, except as provided in subsection (2)(B) of this subsection;

"(B) distribute case or other assets to its members, except that such entity shall not convey fee title to land, or any interest therein, except to the extent authorized or required by sections 14(c) and 21(j) of this Act; and

"(C) exchanges and/or interests therein pursuant to the provisions of section 22(f) of this Act and section 1302(h) of the Alaska National Interest Lands Act.

"(b) A conveyance of assets pursuant to this section must be approved by a prior vote of the shareholders and shall be subject to such terms and conditions as the shareholders may approve.

"(c) Section 21(d) of this Act shall continue to apply to land, or any interest therein, conveyed by a Native Corporation to a qualified transferee entity pursuant to this section.

"(d)(1) An asset subject to section 7(i) of this Act conveyed pursuant to this section shall remain subject to section 7(i) to the same extent such asset would have been subject if the conveyance had not occurred.

"(2) A Regional Corporation shall not convey assets subject to section 7(i) of this Act pursuant to this section to more than one qualified transferee entity. Prior to receiving a conveyance of an asset subject to section 7(i), a qualified transferee entity shall agree in writing to be bound by the provisions of the agreement dated June 29, 1982, among and between the parties to the Aleut Corporation, and others, versus Arctic Slope Regional Corporation (Civ. Act. A75–53 D. Ak.) and to waive its sovereign immunity, if any, with respect to any claims arising under section 7(i) or this subsection. The Regional Corporation, or in the case of its dissolution another single entity designated by its shareholders or the United States district court, as appropriate, shall be responsible for administering the provisions of both section 7(i) and the aforementioned agreement dated June 29, 1982, with respect to all assets subject to section 7(i) conveyed by such corporation pursuant to this section.

"(3) Subsequent to the conveyance of an asset subject to section 7(i) by a Regional Corporation, such asset shall continue as security for the payment by such corporation, or its successor entity, of all revenues which the corporation is obligated to distribute to other Regional Corporations pursuant to section 7(i).

"(e)(1) If a shareholder vote described in subsection (b) approves a conveyance by a Native Corporation of an asset pursuant to this section, a stockholder who voted against the conveyance may demand and receive payment from the corporation for all of his or her shares but only if contemporaneously with the vote the shareholders of the Native Corporation adopt a resolution expressly providing for such right. The procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed if such right is made available pursuant to this paragraph.

"(2) A resolution described in paragraph (1) of this subsection may also provide that the Native common stock of such Native Corporation shall be valued only as restricted stock (having the same restrictions for the same period then applicable to the stock) or that the value of the land, or any interest therein, received by the Regional Corporation pursuant to this Act, which is committed by the corporation to Native traditional or cultural uses or is of speculative or unknown value on the date such resolution is adopted, shall be excluded by the dissenting stockholder, the Regional Corporation and any court in the determination of the fair value of the shares of Native common stock to be purchased from such stockholder by the Regional Corporation.".

SEC. 6. The Alaska Native Claims Settlement Act is further amended by adding a new section to read as follows:

"SEC. 7b. (a) If the Bristol Bay Native Corporation or any village corporation located in the Bristol Bay region so elects pursuant to section 7(h)(2), a vote on the question of whether to continue restrictions on the alienation of Native common stock shall be conducted pursuant to the following procedures:

"(1) On or before December 18, 1991, the shareholders of the corporation shall vote on whether to extend the restrictions on alienation of Native common stock described in section 7(h)(1) for such period, not less than twenty years nor more than fifty years, as the Native common stockholders may approve by the adoption of an amendment to the articles of incorporation to that effect. In the event restrictions upon stock alienation are extended pursuant to this paragraph, the corporation may elect before the expiration of such extension period, or any successor extension period, further to extend the restrictions for such additional period, not less than twenty years nor more than fifty years, as the Native common stockholders shall approve in like manner.

"(2) If the corporation does not conduct a vote pursuant to paragraph (1) or if the shareholders defeat a resolution that the restrictions on alienation be continued, the shareholders shall adopt a resolution which establishes the date or describes the specific events upon which the restrictions shall terminate. If a resolution which establishes the date or describes the specific events upon which the restrictions shall terminate is not voted upon or approved, the restrictions shall terminate one year from the date of the vote disapproving the resolution to extend such restrictions or on December 18, 1991, whichever later occurs. On the date of termination all Native common stock previously issued shall be deemed canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share, subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or in agreements between the corporation and individual shareholders.

"(3) Notwithstanding any provision of Alaska law, other than those provisions which relate to shareholder rights of petition and to proxy statements and proxy solicitations—

"(A) Any amendment to the articles of incorporation of the corporation authorized by this section, section 7(g) and section 7(h) (4) and (5), a transfer of assets made pursuant to section 7a, and a resolution described in paragraph (2) of this subsection of paragraph (2) of subsection (b) shall be approved in the following manner:

"(i) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual or a special meeting of shareholders.

"(ii) A written or printed notice setting forth the proposal or a summary of the changes to be effected shall be given to each shareholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting, either personally or by mail.

"(iii) At the meeting a vote of the shareholders entitled to vote shall be taken on the proposal and it receives the affirmative votes required under subparagraph (B).

"(iv) A number of proposals may be submitted to the shareholders and voted upon at one meeting.

"(B) In order for an amendment to the articles of incorporation, land transfer or resolution to be approved pursuant to this paragraph, the proposal must be voted upon by at least 51 per centum of the outstanding shares of Native common stock entitled to be voted and must receive the affirmative vote of at least 50 per centum plus one of the shares voted: *Provided*, That the stockholders may require a minimum vote of more than 51 per centum of the outstanding shares of Native common stock entitled to be voted or an affirmative vote greater than 50 per centum of the shares voted, or both, to approve any such proposal.

"(C) Any other amendment to the articles of incorporation not specified in subparagraph (B) of this paragraph shall be approved in accordance with the articles of incorporation, bylaws or applicable law.

"(b)(1) If the result of a shareholder vote under subsection (a) of this section is the extension of restrictions against alienation, a stockholder who voted against the extension may demand and receive payment from the corporation for the fair value of all of his or her shares. Unless longer periods of time are authorized in the bylaws of the corporation the procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed to the extent such right is made available pursuant to this subsection.

"(2) The stockholders of a corporation may adopt a resolution, concurrent with the vote authorized under subsection (a), which provides that, in the event dissenters' rights are exercised, the Native common stock shall be valued only as restricted stock (having the same restrictions for the same period made applicable to the stock by the vote) or that the value of the land or any interest therein received by the corporation pursuant to this Act, as amended, which is committed by the corporation to Native traditional or cultural sues or is of speculative or unknown value on the date such resolution is adopted, shall be excluded by the dissenting stockholder, the corporation and any court in the determination of the fair value of the shares of Native common stock to be purchased from such stockholder by the corporation.

"(3) The stockholders of a corporation who adopt a resolution pursuant to paragraph (2) of this subsection may also provide in such resolution that payment to a dissenting shareholder shall be made by the corporation through issuance to such shareholder of a nonnegotiable debenture in the principal amount of the payment due, which debenture shall be secured either by a payment bond issued by an insurance company or financial institution, by the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face amount of the debenture, or by a lien upon the real property interests of the corporation other than lands or any interest therein which are committed by the corporation to Native traditional or cultural sues and, in the case of Bristol Bay Native Corporation, its timber resources and subsurface estate. The debenture shall bear interest, payable semiannually, beginning as of the date of the corporation elected to extend stock restrictions at the rate applicable on such date to obligations of the United States having a comparable maturity. The principal amount of the debenture and any undistributed interest shall be payable at any time at the option of the corporation or, if not so called, shall be paid to the former shareholder, or his heirs, on December 18, 1991, or, if the stock restrictions otherwise would have expired on a later date, then on such date or five years after the date of the election, whichever first occurs.".

SEC. 7. The Alaska Native Claims Settlement Act is further amended by adding a new section to read as follows:

"SEC. 7c. Nothing in this Act shall be construed as enlarging or diminishing or in any way affecting the scope of any governmental authority of a federally recognized tribe, traditional Native council or Native council organized pursuant to the Indian Reorganization Act, as amended, or any right, privilege or immunity of Alaska Natives as Native Americans in their relationship with the Government of the United States.".

SEC. 8. Section 8(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1607(c)) is amended to read as follows:

"(1) The provisions of sections 7 (g), (h), and (o) and section 7b of this Act relating to Regional Corporations shall apply in all respects to Village Corporations, Urban Corporations and Native groups; except that (A) audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate; and (B) subject to the provisions of paragraph (2) of this subsection, restrictions on the alienation of Native common stock of such corporations, inchoate rights thereto and any dividends paid or distributions made with respect thereto shall continue after December 18, 1991.

"(2) The restrictions on alienation of Native common stock of Village Corporations, Urban Corporations and incorporated Native groups may be removed by the adoption of an amendment to the articles of incorporation to such effect: *Provided*, That a shareholder vote on an amendment calling for the removal of such restrictions may be held once before Decem- ber 18, 1991, and, if such amendment shall not be adopted, subsequent votes on a like amendment may be held not more frequently than at annual intervals after December 18, 1991: *Provided further*, That stockholder votes to amend the articles of incorporation of a Native corporation pursuant to this paragraph shall be held in accordance with the provisions of subsections 7(h) (2) and (6) or section 7b, as the case may be, except that the form of a resolution concerning restrictions on alienation must be a resolution to terminate such restrictions and a village corporation may decide, in accordance with the provisions of subsection 7(h)(6)(B) to grant dissenting rights to shareholders who vote in favor of such a resolution which does not pass.".

SEC. 9. Section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) is amended to add the following new paragraph:

"(i) Authorization for conveyance of subsurface to village entities:

"(1) A Regional Corporation may convey any subsurface estate owned by such corporation to a village entity which acquired and still owns the surface estate pursuant to this Act.

"(2) Notwithstanding any conveyance under this paragraph the Regional Corporation shall receive the 30 per centum of the revenues from the development of the subsurface estate it would have retained had there been no such conveyance.

"(3) Any conveyance under this paragraph shall be subject to the provisions of subsections 7a(b)–(e) as if the village entity were a qualified transferee entity. The document or documents effecting such conveyance shall be recorded by the Regional Corporation, together with copies of subsections 7a(b)–(e) and this subsection, in the land records of the appropriate recording district.

"(4) The village entity to which any subsurface estate is conveyed pursuant to this subsection may not convey or otherwise transfer all or any part of such subsurface estate to any other entity without the express consent of the transferor Regional Corporation.".

SEC. 10. Section 21(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(d)(1)) is amended to read as follows:

"(1) All land and interests therein conveyed, pursuant to this Act, to a Native individual, Native group, village or Regional Corporation or corporation established pursuant to section 14(h)(3) of this Act shall, so long as such land and interests therein are not developed or leased to third parties or are used solely for the purposes of exploration, be entitled from the date of their conveyance to immunity from—

"(A) adverse possession and similar claims based upon legal theories of estoppel;

"(B) real property taxes by any governmental entity, including Federal, State, or local;

"(C) judgment resulting from any claim based upon the laws of bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally; and

"(D) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native group or any officer, director, or stockholder of any such corporation or group.

Land to which this paragraph applies shall not be considered developed solely as a result of the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further the subsistence or other customary or traditional uses of such land: *Provided further,* That the immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such land or interests therein may be entitled under the Alaska National Interest Land Conservation Act: *And provided further,* That the immunities provided for in this paragraph shall not apply to any judgment in any action at law or equity or to any arbitration award arising out of any claim regarding revenue sharing under section 7(i): *And provided further,* That land to which this paragraph applies and land which is conveyed pursuant to section 7a of this Act as amended shall be subject to condemnation for public purposes in accordance with the provisions of applicable State law.".

SEC. 11. Subsection 21(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(f)) is amended by deleting "Until January 1, 1982," and replacing such language with "Until such time as the limitation upon alienation of Native common stock has been removed pursuant to section 7(h)(2) and section 7b of this Act,".

SEC. 12. Section 28 of the Alaska Native Claims Settlement Act (43 U.S.C. 1625) is amended by replacing the final clause of the first sentence, "through December 31, 1991."

with the following: "through the earlier of the day after (i) the date on which the corporation (1) issues (other than by descent or devise) any shares of stock which will not be issued solely to Natives or descendants of Natives or to entities established for the sole benefit of Natives or descendants of Natives or (ii) the date on which the corporation removes the limitation on alienation of Native common stock as provided for in section 7(h)(2) and section 7b of this Act.". After the next sentence, add the following: "For the purpose of determining the applicability of the registration requirements after such date of the Securities Exchange Act of 1934 (48 Stat. 74), as amended, holders of Native common stock shall be excluded from the calculation of the number of shareholders or record pursuant to section 12(g) thereof. The provisions of the Investment Company Act of 1940 shall not, in any event, apply to any corporation organized pursuant to this chapter until January 1, 2001, at the earliest.".

SEC. 13. Section 10 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended by adding the following new subsection:

"(c) The United States District Court for the District of Alaska is hereby vested with exclusive original jurisdiction over any action challenging the constitutionality of sections 7a, 7(g), 7(h), 8(c), and 8(i) of this Act. Such action shall be heard and determined by court of three judges as provided in section 2284 of title 28, United States Code, with a direct appeal from any final judgment to the United States Supreme Court. If the United States district court should determine that any of the aforementioned sections violate the fifth amendment to the United States Constitution, in fashioning appropriate relief, the court shall not enter a money judgment against the United States, it being the express intention and direction of Congress that in no circumstances shall the enactment of this Act result in any liability on the United States.".

SEC. 14. Section 30(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1627(b)) is amended to delete the phrase "prior to December 19, 1991" and insert in lieu thereof the phrase "while the Native common stock of all corporations subject to such merger or consolidation remains subject to restraints on alienation.".

SEC. 15. Section 27 of the Alaska Native Claims Settlement Act (43 U.S.C. 1628) is amended to read as follows:

"The provisions of this Act, as amended are severable. If any provision of the Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision.".

SEC. 16. Section 29 of the Alaska Native Claims Settlement Act (43 U.S.C. 1626) is amended to insert the phrase ", including any stock issued under section 7(9) (2) or (3) to Natives who have attained the age of sixty-five and any dividends thereon," after the phrase "under this chapter" in subsections (a) and (b).

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you very much, Senator Wallop. First of all, let me, on behalf of all Alaskans, and particularly those that are assembled here this morning, welcome you to Fairbanks. We greatly appreciate your willingness to conduct this hearing.

As you know, we're going to have another hearing in Anchorage on Tuesday. Senator Stevens will be joining us at that time.

But we are most appreciative of your presence, and, as a consequence, we have got, as you have already noted, a good deal of sunshine out there, and we also have the coming of the mosquito—and they're always happy to see new blood come to Fairbanks, so I would suggest you beware.

Earlier this year, as you know, at the request of the Alaska Federation of Natives, our delegation, Senator Wallop, that is, Senator Stevens, Don Young and I, introduced the legislation containing amendments to the Alaska Native Claims Settlement Act.

Since that time, as you have indicated, hearings have been held in Hoonah and Barrow, and there was also a hearing held in Kotzebue and Washington, DC, to determine how Alaskans viewed this legislation. Of course, the purpose of the hearing this morning and the one to be held in Anchorage Tuesday is to continue the information-gathering process which is underway.

Testimony given at these hearings, plus the letters, the telephone calls, contacts from many Alaskans, have shown indeed that there exists a wide range of opinions on several provisions of the 1991 proposed legislation.

Many of the provisions of the bill provide options to Native corporations for addressing stock ownership, transfer questions, dissenters' rights, continuation of stock restrictions, and issuing stock to new Natives; all are issues that fall into the category under consideration in this legislation. The responsibility for policy decisions on these issues rests, to a large degree, within Alaska's Native community.

On the other hand, there are certain sections of the bill which have a broad impact, inasmuch as they affect all Alaskans, extending unlimited tax-exempt status to undeveloped lands, ensuring that the bill remains neutral on the question of sovereignty are two such issues.

It is imperative that we have the views of a wide spectrum of Alaskans on these matters in order to assure that the legislation embodies some public policy for the benefit of our entire State.

I have stated many times that the language of the 1991 amendments is not cast in stone, changes to the bill will be made to reflect the view of Alaskans for the benefit of Alaskans as we proceed with the development of this legislation.

I indicated my concern over three specific areas, and have indicated that the purpose of this legislation is not to foster the establishment of sovereignty within our state.

There is a proposal that no tax exemption for developed revenue-producing lands. There is to be, in other words, no tax exemptions for developed revenue-producing lands.

The Federal and State governments do not intend under this legislation to assume any additional liability, nor provide any additional land or money to Native corporations.

The question of those born after 1971 is an issue that will have to be addressed by the individual Native corporations under existing corporate law under the concept of stock dilution formulas.

I would like to take this opportunity, Senator Wallop, to introduce a few people that are here. One young woman is with us this morning from Washington, DC, and serves on the Energy Committee, which is chaired by Senator McClure, our good friend from Idaho; Faith Haywood is on my immediate right, and she is, I guess, an Alaskan by birth preference and otherwise, but has spent a good deal of time in Washington, DC. Faith, we're happy to have you with us. Sherry MacBeth is over here on the other side, a member of my staff, hails from Fairbanks, and is associated with the University of Alaska. And Tony Bevinetto, on my immediate left, and he is on the staff of the Energy Committee, and John Moseman on my right, and Marcia Jones.

I would like to conclude, again, Mr. Chairman, by thanking you. For those of you in the audience that might not know, Senator Wallop is the Chairman of the Public Lands, Reserved Water and Resource Conservation Subcommittee of the Full Committee on Energy and Natural Resource. The responsibility of Senator Wallop is well known to all of us who serve with him. I think it's fair to say, and it's approptiate to say it early in the hearing, that your knowledge of public land law legislation is widely acclaimed and widely known and you're certainly an expert in this area, and we're very pleased to have you conduct the hearing, which is of great importance to all Alaskans.

So with that, I would thank you for the opportunity to have my statement in the record and would look forward to the hearing.

Senator WALLOP. Thank you. As I look down the list of witnesses, I predict that more than one time before this day is over my tongue will be tied. I'm going to ask your indulgence for a gringo, when I pronounce some of the Alaskan names that are here. Please don't hesitate at all to correct me and correct me for the record—they may not even know for the record the way I pronounce some of them. So it's best that you be forthright and let me know.

We will begin with testimony of Senator Jack Coghill, to be delivered by Kathleen Dalton, and Chris Birch of the North Star Borough.

Please, Ms. Dalton.

STATEMENT OF KATHLEEN DALTON, ON BEHALF OF STATE SENATOR JACK COGHILL

Ms. DALTON. Good morning, Senator Wallop and Senator Murkowski.

I am Kathleen Dalton, and I appear here today to give a brief statement for Senator Jack Coghill, State Senator.

I am Kathleen Dalton, a 38-year resident of Alaska. I appear here today to enter into your committee hearing records some comments from State Senator Jack Coghill, who is not able to be here in person.

Senator Coghill represents an area of central interior Alaska, which is larger than the State of Oregon. His District includes 43 communities, towns, villages, and concentrations of homesteaders. He was born in Fairbanks and has lived in Nenana all his life.

His public service record includes school board during the territorial days, 4 years in the Territorial legislature, one of the 55 Alaskans who drafted our State constitution in 1955–56, 6 years as State Senator at the beginning of Statehood, 21 years as Mayor of his town of Nenana, and currently serving a second year of a 4-year State Senate term. He has proven himself a concerned and active citizen.

Senator Coghill feels that the 1991 amendments as currently drafted would remove obstacles to sovereignty that was agreed upon in 1971 by the State, the Native community, and Congress; that is, with the passage of the Alaska Native Claims Settlement Act.

He also feels that more time is needed for all of Alaska to become aware of just how far-reaching these amendments can be.

All Alaskans should be involved in the decisions that are proposed in the 1991 amendments, he feels.

In early April, Senator Coghill spoke to the Republican Weekly Lunch Meeting in Fairbanks about the 1991 amendments. A copy of that address was submitted as part of your record.

Near the end of our legislative session, Senator Coghill wrote and introduced a resolution concerning the 1991 amendments. That resolution was assigned to the Senate Rule Committee and did not get to the floor of the Senate for action.

For the record, we include Senate Resolution 12, though I repeat, it did not get to the floor for action.

In this document, the Senator has outlined his concerns, with clarity. The resolution is positive, it's very positive. It supports ANCSA. It asks for at least one year's delay in action on the proposed amendments. And it asks that hearings such as this be conducted in all of the election districts of Alaska.

We request that the hearing record be kept open so more Alaskans, including Senator Jack Coghill, can continue to add their comments on this very important issue before Congress.

Before any action is taken on the 1991 amendments, we request that delay of at least one year be granted so that education of all Alaskans can be accomplished. Thank you, Senators.

[State Senator Coghill's remarks and resolution follow:]

COMMENTS BY

Senator Jack Coghill

Republican Lunch Meeting, Travelers Inn, Fairbanks

April 11, 1986

We draw your attention to a term that you all should memorize, talk about and participate in.

The term is "1991 Amendments".

They are proposed amendments to the Alaska Native Claims Settlement Act (ANSCA). That act was signed into law in December of 1971.

That act stipulated that in 20 years certain things would happen to the Alaska Native Claims Settlement Act.

One of the most apparent is that in 1991 the 44 million acres of land the Native corporations selected would become taxable AND they would be subject to sale by the corporation.

Since statehood we Alaskans have been assaulted by many far reaching and very significant acts of Congress, acts that are "confiscating" our rights and our lands and our access.

First was the Alaska Native Claims Settlement Act of December, 1971. That act caused the State of Alaska to put up half a billion dollars for Native settlements. This matched a like amount from the Congress so a total of $1 billion in cash was given to the newly created 13 regional corporation. The state (and Congress) also gave these regional corporations 44 million acres of land with fee simple title which means they own everything underneath the surface.

Another significant act was imposed on Alaska: the Marine Mammal Act of 1972. That act, in brief, gave the Federal Government management power over all of our marine mammals. Marine mammals include all species of seals, walrus, whales, belugas, and polar bear. An important exception was made to that act which allows only Native Alaskans to take any of those mammals.

The Feds have a dismal record of "management". They have not had the budgets or the field agents to manage. They have NOT managed. Hundreds of walrus are taken every year for their tusks and oosiks. Hundreds of polar bear are shot in Alaska every year, but there again, only by Native Alaskans.

Still another far reaching and significant act of Congress is the 1980 "lands act", officially titled Alaska National Interest Lands Conservation Act (ANILCA).

You all know that that act has caused many headaches and many disputes about access across certain lands. The terms "posey sniffers", "preservationsists", "tree huggers" are common names we have all heard, and they have been generated out of frustration by our land users, our miners, our forest products people, many of whom are stymied in their development of resources. All, it seems, since the ANILCA was signed into law Dec. 2, 1980

The placer miners are a good example. You all know about their current problems.

* * * * *

I outline these above acts because they have managed to drive a "wedge" between some of our good Alaskans.

These 1991 amendments may be another step of the federal government interferring in the rights of our community - Alaska.

Now...for some hard questions.

* * *

Access? How do we develop trails on lands that go into the federal land pool? Through Native lands to our State lands and to private lands?

* * *

What are "Indian Lands" in Alaska? There are no "Indian Lands" in Alaska except for Metlakatla.

* * *

Individual rights? The inalienable United States citizens' rights being taken away from us in these 1991 amendments.

* * *

It seems to me that since most banks in Alaska now have Native investments, that the banking laws of the United States would require that any of these investments are taxable and lienable...and the question I have, after studying these 1991 amendments, is how can such investments be exempt from federal banking law?

* * *

If the community of Alaska feels that there is sufficient evidence to give an extension to ANSCA, to extend that provision out further - five years or 10 years- we don't have any problem with that. But we don't want to re-design the the wheel again. Because every time we re-design the wheel, the State of Alaska, the society, the citizens......

we all lose...because there is a "guilt trip" going on by certain people in Congress. What they are doing is they are taking a tranquil situation in the north country...the Great Frontier...and they are creating an apartheid situation.

Certain leaders are grouping our Alaskans into tribes by persuasion in this act (1991 amendments). Some village people are being coerced into "collectivism", losing their citizen right.

How do we operate an economic structure in Alaska when we have a group of our society and a group of our economic structure exempt from failure loss, exempt from the corporate structure of Alaska?

These issues whould be widespread debated and they should not be considered "white man" versus "indian man" or western dollar economy versus subsistence economy.

Introduced: 5/9/86
Referred: Rules

ORIGINAL

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

SENATE RESOLUTION NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

Supporting the provisions of the Alaska Native Claims Settlement Act and opposing certain amendments to that Act.

BE IT RESOLVED BY THE SENATE:

WHEREAS the State of Alaska traditionally has considered and treated all residents of the state as equal citizens under the law, the United States Constitution, and the Alaska Constitution; and

WHEREAS the United States Congress declared as its policy in Section 2(b) of the 1971 Alaska Native Claims Settlement Act that "the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska"; and

WHEREAS the State of Alaska has been an active participant in effecting the Alaska Native Claims Settlement Act, has contributed $500,000,000 from the state treasury to the 13 Alaska Native regional corporations, and has supported the granting of title to 44,000,000 acres of land in the state; and

WHEREAS the Alaska Native Claims Settlement Act provided for the gradual transition from trust status for Alaska Natives to equality for all

Alaska citizens; and

WHEREAS in 1986 two members of the Alaska Congressional delegation introduced S. 2065 and H.R. 4162, which would substantially amend the intent and specific agreements of the Alaska Native Claims Settlement Act; and

WHEREAS any action at the federal level to weaken the State of Alaska's position in treating all Alaskans equally is detrimental to the long-term social, cultural, and economic future of the citizens of the state; and

WHEREAS the Alaska Native Claims Settlement Act intended that the Alaska Native Community, through its regional corporations, would become a significant element of the business and economic enterprise system in the state, and certain immunities included in the proposed 1991 amendments would preclude free economic exchange; and

WHEREAS United States Senator Frank Murkowski has requested "the official views of our state legislators...on this important legislation";

BE IT RESOLVED that the Alaska State Senate supports the Alaska Native Claims Settlement Act as originally passed, including its intent and purposes; and be it

FURTHER RESOLVED that the Alaska State Senate opposes any amendments, such as those proposed in the "1991" package, that would legally alter the intent and provisions of the 1971 Alaska Native Claims Settlement Act by creating permanent racially defined institutions, by granting racial stock provisions, or be establishing racially defined tax privileges; and be it

FURTHER RESOLVED that the Alaska State Senate opposes any amendments to the 1971 Alaska Native Claims Settlement Act, including those proposed in the "1991" package, that would establish a unique relationship between certain Native Americans and the federal government, that would cause Alaska Natives to relinquish their Alaskan and United States "first class citizen" status, and that would reduce Alaska Natives to the status of a "ward of the United States government"; and be it

FURTHER RESOLVED that the Alaska State Senate does not oppose extending the 1991 deadline under the Alaska Native Claims Settlement Act to the year 1996; and be it

FURTHER RESOLVED that the Alaska State Senate opposes any amendments to the Act that would allow unequal exempt status of developed state land and thereby unfairly transfer the tax burden to other existing land owners; and be it

FURTHER RESOLVED that the Alaska State Senate opposes amendments to the Act that would permit the transfer of nontaxable properties to corporations or entities organized under federal law, but not organized and recognized under the constitution and laws of the State of Alaska; and be it

FURTHER RESOLVED that the Alaska State Senate desires to preserve the provisions and spirit of the 1971 Alaska Native Claims Settlement Act that ratify Native Alaskans' rights as full citizens of the State of Alaska and the United States of America; and be it

FURTHER RESOLVED that the Alaska State Senate respectfully requests the United States Congress to hold extensive public hearings in all election districts of Alaska on the 1991 amendments to assure broad public understanding and comment.

COPIES of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States; the Honorable George Bush, Vice President of the United States and President of the U.S. Senate; the Honorable Thomas P. O'Neill, Speaker of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Senator **Wallop**. Thank your, Ms. Dalton.
Mr. Birch.

STATEMENT OF CHRIS BIRCH, ASSEMBLYMAN, NORTH STAR BOROUGH

Mr. **Birch**. Thank you, sir. First of all, I'd like to welcome you, Senator Wallop, to Fairbanks. I don't know if you brought this weather with you or not, but it's beautiful and we appreciate it.

I am speaking against the amendments for ANCSA as they're set out. I'm speaking as a borough assemblyman. And my principal concern is that the issues that constituted the Alaska Native Claims Settlement Act were negotiated and settled in 1971. And although many were critical of the Settlement agreement, I think it has served its purpose.

My principal concern is the tax-exempt status to be applied to lands beyond 1991. I think with reductions in federal and State support for muncipalities, I think it is important to expand the tax base. The Federal percentage for road construction in Alaska has been reduced. That reflects a reduction in federal participation for roads due to the reduction in public lands. And basically, that reduction requires that those lands be assimilated into the tax base.

I think that in the Fairbanks, North Star Borough alone, these lands are in excess of $15 million— as a conservative estimate.

I think all property owners should share in the burden of support in the local economy.

Regarding the 1971 agreement, I feel it was hammered out with much emotion, hard work and compromise. I think it has served the Alaska Native people very well. I think we need to face the future together beyond 1991 with a common footing, and I urge your consideration toward leaving this agreement as it stands. Thank you.

Senator **Wallop**. Thank you, Mr. Birch.

Let me just say that it is not likely that we can hold hearings such as this in every election district. The cost of sending staff and reporters would about consume the rest of the Energy Committee's hearing budget for the year. But the fact is, the hearing record will remain open for comment.

Just looking at the legislative schedule that remains on our plate for the rest of this year, plus the fact that it's an election year, and Congress will almost certainly recess in October, settling an issue that has the potential of being as contensious as this is not a likely event. It's not an impossible event in this year, but I would urge everyone to get their testimony to Senator Murkowski's office or our Committee in Washington, because it is a matter of considerable importance and we would like to have you think that at least we're interested enough to be receptive of the commentary of Alaskans from whatever perspective they approach it.

Thank you both very much.

Ms. **Dalton**. May I ask, Senator, can you give us a date certain on closing the record?

Senator **Wallop**. 30 days after this hearing and the Anchorage hearing, and then there will be a Washington hearing as well. So it would be 30 days after that.

Ms. DALTON. Thank you.

Senator MURKOWSKI. Senator.

Senator WALLOP. Yes, Senator Murkowski.

Senator MURKOWSKI. I wonder if I could just ask Mr. Birch if the Fairbanks Borough is going to testify? You're a member of that borough. Do you have any idea if the Borough is going to have a position? I'm particularly interested in exercising the issue of taxation so that the record can reflect it. Those lands within the borough that are owned by Native corporations are currently non-taxable, and under the existing law those lands would be taxed 20 years after they have been received in their entirety. Under this provision they would be taxable only if they generated revenue. And since they're in the borough, my question is, does the Borough have a position on this?

Mr. BIRCH. There has not been a resolution passed collectively. That certainly could be something that could be adopted. I think the concerns that I'm sharing with you regard the reduced tax base that we have to deal with and reduced revenues that the need for utilizing, you know, and having available for taxation all properties within the borough.

Senator MURKOWSKI. Well, I guess my question is, would you assume the holder of the property, the Native corporation, would be enduced to attempt to develop it so they could generate revenues and at that point it would be taxable to the borough. I don't know the answer.

Mr. BIRCH. I feel that it should be taxed as any land in the borough after 1991. I think basically there's a lot of private landholders in the borough, and I think that everybody ought to be on an equal footing. I think that those provisions are set out that the 20-year period runs out in 1991, and I think we're all going to be scratching, looking for sources of revenue. And I think properties need to be on the roles.

Senator MURKOWSKI. How would you handle the reality that lands outside the borough aren't receiving any benefits from the borough and they're treated under this proposal the same way; in other words, the lands aren't taxable unless they generate revenue? Do you have a position on that?

Mr. BIRCH. Personally, I think that's beyond the bounds of our borough, but perhaps a State property tax, or, you know, in some manner or another.

Senator MURKOWSKI. Many of these lands have no ability to generate revenue. So if you tax them, in order to pay the taxes, they would have to sell the land, which would defeat the concept of the subsistence, which is what the land is for.

I don't mean to go on, Mr. Chairman, but I think it important that the public bodies address the question of taxation, It's quite a legitimate concern. And there is a distinction between the borough land, land in the borough and land outside. Mr. Birch, I would encourage your borough government to reflect on the issue and present it for the record. Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Senator, and thanks, Mr. Birch.

Next is Mr. Steve Britt, legislative counsel for the Department of the Interior.

STATEMENT OF J. STEPHEN BRITT, LEGISLATIVE COUNSEL, DEPARTMENT OF THE INTERIOR

Mr. BRITT. Thank you, Mr. Chairman. Good morning. My name is Steve Britt, and I'm pleased to be here today to discuss S. 2065, a bill to amend the Alaska Native Claims Settlement Act.

This legislation, as you know, is intended to resolve what are known as the 1991 issues, those issues related to expiration of the restrictions on alienation of Native corporation stock in the year 1991.

Before I get to the substance of the Department of the Interior's testimony, we would like to commend both you and Senator Murkowski for holding these hearings. They serve an invaluable purpose in defining the objective of the legislation, identifying the long-term effects of changes in the original Act, and giving us at the Department a chance to hear first-hand the desires and concerns of those most directly affected, the Alaska Natives themselves.

We support the continuing efforts to resolve the 1991 issues, and are currently conducting an in-depth analysis of the proposed legislation.

These hearings will help that effort substantially. As you know, the Alaska Native Claims Settlement Act of 1971 is unique. It provided a form of settlement for long-standing Native land claims in Alaska by use of a corporate structure, including individual stock ownership by Alaska Natives.

Under the terms of ANCSA, these shares in ANCSA corporations remain inalienable, except for a few limited circumstances until the end of 1991.

As we move closer to this deadline, Mr. Chairman, several parties have expressed concern that the free sale of stock by Natives could result in widespread loss of Native rights and Native lands through the loss of ownership and control of these corporations, and that 20 years is not long enough to secure a solid future for Alaska Natives.

I think it is fair to say, Mr. Chairman, that the Department shares these concerns. Nevertheless, we support the bold principles and carefully negotiated framework of ANCSA.

The corporate model has laid the groundwork for achievements by Native shareholders beyond what has been possible for Native populations in the Lower 48.

Although the impacts of the Act have varied from corporation to corporation, we believe the results of the law show sufficient progress that its fundamentals should be preserved and allowed to continue.

Because of our faith in its original design, we believe that any changes or amendments to the basic framework of the 1971 Act must, indeed, be carefully scrutinized.

Before reviewing the particular elements of S. 2065, I'd like to reiterate the administration's policies goals towards Alaska Natives, these principles guide our review of any legislation to amend the original Act.

One, Mr. Chairman, the Federal Government must fulfill its obligations according to the letter and spirit of the 1971 Act; two, there should be no significant weakening of ANCSA's Section 2(b) policies; three, we should facilitate opportunities for continued Native control of Native corporations. We seek this because of our own goal of protecting the economic self-sufficiency of Alaska Natives. And four, Mr. Chairman, we seek to minimize Federal intervention and control and, indeed, to enchance Native self-determination.

We believe there should be no termination in this special Federal relationship with Alaska Natives. And, finally, Mr. Chairman, in these times of fiscal constraint, we cannot support increases in or new Federal obligations or liabilities.

With these concepts in mind, I must note that in the Department's preliminary review of S. 2065, we have identified certain proposed changes that could have long-range impacts on Native land policy in Alaska, which, in our view, deserve further scrutiny.

These include but are not limited to the following elements: One, differentiating between stock held by Natives and non-natives; two, allowing the issuance of new stock to children of Natives without consideration; three, mandating the continuation of the prohibition against alienation of stock; four, allowing the formation of new groups under Section 7(a) with new privileges and immunities; and, finally, creating new or extended tax privileges and land protection in Section 21(d).

Mr. Chairman, there's substantial concern at the Department with these proposed changes for a number of reasons, including the fact that: One, the elimination of Native common stock as it's now contained in the bill may restrict the ability of Native corporations to finance their activities through normal equity financing; two, that the provisions allowing issuance of new stock for no consideration could result in the dilution of value of those shares held by present shareholders; three, the automatic extension of alienation restraints on stock could have an adverse impact on present property interest of present shareholders and, indeed, could create serious Federal liability consequences; four, the opportunity of dissenting shareholders to receive fair value for their stock may be significantly impinged by this legislation.

Moreover, we believe that many of the proposed changes may be unnecessary to ensure Native ownership and control.

We believe it may well be possible to achieve this expressed goal, a goal that we indeed share, by, in some cases, utilizing provisions of existing law and maybe in others with new legislation less sweeping than the current bill.

We also believe there may be other avenues of ensuring that there's no impairment of historic subsistence uses of Native lands, that avoid many of these concerns.

And finally, we are concerned that the tax exemption and other immunities may go beyond the basic goals of Alaskan land protection and create unintended problems for conservation management.

In conclusion, Mr. Chairman, we continue to support the original Settlement Act and, indeed, recognize though that many issues must be worked out before the end of 1991.

While the Department has not yet finalized its position on this particular bill, we believe we must keep in mind that ANCSA was indeed a settlement of many important and serious issues. We are now almost 15 years into the operation of its carefully-negotiated framework, and we should not consider lightly major changes in that structure, especially those which go beyond the main reason for the amendments, the lifting of the alienation restriction restraints.

On that point the Department is likewise concerned and support the seeking additional means of protection.

We wish to facilitate continued Native control of Native corporations. We, too, support protection of individual shareholders from outside influence and from being ripped off; and, we, too, agree with the importance of protecting the underlying land assets.

That's why we appreciate the opportunity to be here today to hear first-hand the feelings of Alaska Natives and ensure that the protection we seek do not undermine the other benefits of the original Act.

With that, Mr. Chairman, I appreciate your indulgence. We pledge our best efforts to upgrade and ensure and improve the Alaska Native Claims Settlement Act. In this regard, the Department has already met with various Alaska Native groups and their representatives, including the Alaska Federation of Natives, in order to discuss our concerns. These discussions, I'm pleased to say, are scheduled to continue next month. We're grateful to the Committee for holding this hearing and look forward to working further with you, the State of Alaska and Alaska Natives to produce acceptable legislation.

Thank you. I appreciate your allowing me to speak.

[The prepared statement of Mr. Britt follows:]

STATEMENT OF J. STEPHEN BRITT, LEGISLATIVE COUNSEL, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 2065, A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

MAY 24, 1986

Mr. Chairman, I am pleased to be here today to discuss S. 2065, a bill "To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act and for other purposes." This legislation is intended to resolve what are known as the "1991" issues--those issues related to expiration in the year 1991 of the restrictions on alienation of Native corporation stock.

Before I get to the substance of the Department of the Interior's testimony, Mr. Chairman, we would like to commend you and Senator Murkowski for holding these hearings. They serve an invaluable purpose in defining the objectives of the legislation and in identifying the long-term policy implications of changes in the original law. We support the continuing efforts to resolve the 1991 issues, and are currently conducting an in depth analysis of the proposed legislation in order to ensure that it conforms with this Administration's policies.

The Alaska Native Claims Settlement Act of 1971 (ANCSA) is unique. It provided a form of settlement for longstanding Native land claims in Alaska by use of an unusual corporation system, including individual stock ownership by Alaska Natives. Under the terms of ANCSA, these shares in ANCSA corporations remain inalienable, except for a few special situations involving court decrees, until the end of 1991. As we move closer to this deadline, several parties have expressed concern that free sale of stock by the Natives could result in widespread loss of Native lands and rights through loss of ownership and control of the corporation, and that 20 years is not long enough to secure a solid future for these Alaska Natives.

We support the bold principles and carefully negotiated framework of ANCSA. The corporate model has laid the groundwork for achievements by Native stockholders beyond what has been possible for Native populations in the lower 48. Although the impacts of the Act have varied from corporation to corporation, we believe the results of the law show an emerging pattern of success that should be allowed to continue. Because of our faith in its original design, we believe that any changes or amendments to the basic framework of the 1971 Act must be carefully scrutinized.

Therefore, we approach S. 2065 by measuring it against certain policies and goals of this Administration toward Alaska Natives. These include the following:

1. The Federal Government must fulfill its obligations according to the letter and spirit of the 1971 Act;

2. There should be no significant diminution in ANCSA's section 2(b) policy. Section 2(b) makes explicit ANCSA's policy of rapid settlement, conformance with the real economic and social needs of Alaska Natives, no litigation, maximum participation by Alaska Natives, no permanent racial institutions or privileges, and no new categories of property and institutions;

3. We should facilitate appropriate opportunities for continued Native control of Native corporations. We seek this because of our support for the goal of

economic self-sufficiency of Alaska Natives. In addition to preserving the cultural benefits of Alaska Native's owning their own land, this policy lessens the risk of concentration in the hands of a few of the economic power inherent in these natural resources;

4. We seek to minimize Federal intervention and control, and to enhance Native self-determination;

5. There should be no "termination" of the special Federal relationship with Alaska Natives; and

6. Finally, we cannot support any increases in, or new, Federal obligations or liabilities.

Underlying these goals and policies are some fundamental assumptions. Among these are that individual Alaska Natives are not, and should not be treated as though they are, incapable of formulating basic judgments about their own well-being. Moreover, we are convinced that the leadership of most Alaska Native corporations is quite sophisticated and increasingly has demonstrated the ability to utilize both inside and outside talent when it furthers the interests of the corporation. We do recognize, however, that some corporations are not as fortunate.

With these concepts in mind, Mr. Chairman, I must note that our preliminary review of S. 2065 has identified certain proposed changes in ANCSA that could have long-range impacts on Native land policy in Alaska and which, in our view, deserve further scrutiny. These include, but are not limited to, the following:

1. Differentiating between stock held by Natives and non-Natives;

2. Allowing the issuance of new stock to children of Natives without consideration;

3. Mandating continuation of the prohibition against alienation of stock;

4. Allowing the formation of new groups under section 7(a) of the bill with new privileges and immunities; and

5. Creating new or extended tax privileges and land protection in section 21(d) of ANCSA (section 10).

There is substantial concern in the Department over these proposed changes for the following reasons, among others:

1. The creation of "Native Common Stock" may restrict the ability of Native corporations to finance their activity through normal equity financing;

2. Provisions allowing issuance of new stock for no consideration could result in the dilution of value of shares held by present shareholders;

3. Automatic extension of alienation restraints on stock could have an adverse effect on property interests and rights of stockholders under current law and could create serious Federal liability consequences;

4. The opportunity of dissenting shareholders to receive fair value for their stock may be significantly impinged by the legislation;

5. Many of the proposed changes may be unnecessary to guarantee Native ownership and control of the corporations. It is possible to achieve the expressed goal of facilitating continued Native control by utilizing provisions of existing law and/or new legislation which is less sweeping in scope than the bill currently before you;

6. We believe there may be other avenues of ensuring that there is no impairment of historic subsistence uses of Native lands that avoid the problems we have outlined herein; and

7. Finally, we are concerned that the tax exemption and other immunities provided in the bill go beyond the basic goals of Alaskan land protection and could create unintended problems for conservation management.

In conclusion, we continue to support the original settlement Act, but recognize that many issues must be worked out before the 1991 deadline. The Department of the Interior, however, has not yet finalized its position on the bill before you.

We fully recognize, Mr. Chairman, that this legislation is only a part of an ongoing process and we pledge our best efforts to upgrade and improve on the new experiment of the Alaska Native Claims Settlement Act. In this regard, the Department has already met with various Alaska Native groups and their representatives, including the Alaska Federation of Natives, in an attempt to resolve our concerns with the legislation. Those discussions are scheduled to continue next month. We are grateful to the Committee for holding hearings on these issues, and we look forward to working further with you, the State of Alaska, and Alaska Natives to produce legislation acceptable to all.

Senator WALLOP. Thank you, Mr. Britt.

Mr. BRITT. Thank you, Senator Murkowski.

Senator MURKOWSKI. Thank you very much.

We appreciate your statement, Mr. Britt. Could you tell us for the record how much land has been conveyed to Alaska's Native corporations currently and when we might expect the balance to be completed in the conveyance process?

Mr. BRITT. Mr. Chairman, I have our April 7th Quarterly Report, indicating that the land title transferred to Alaska Natives, villages, regions and reserves as of the end of March 1986, 34,410,311 acres, representing, I think, approximately 80 percent of the expected conveyances.

Senator MURKOWSKI. Do you know when the balance of the 5 million plus will be transferred and why that's taking as long as it is?

Mr. BRITT. Mr. Chairman, I'm afraid I don't have a projected date on that. I would be happy to check that for you.

Senator MURKOWSKI. We would appreciate that for the record. I think it's certainly germane.

Is it your understanding that the 20 years starts when all the land is conveyed in its entirely, or just when it's received in the sense of parceling out?

Mr. BRITT. Mr. Chairman, I'm afraid I don't have that answer for you either.

Senator MURKOWSKI. It's my understanding it's the latter, but we would appreciate clarification on that for the record.

Mr. BRITT. Okay.

[Subsequently the Department of the Interior submitted the following:]

Under the Alaska Native Claims Settlement Act (ANCSA), Native corporations are entitled to select 44 million acres of Federal land in Alaska. Transfer of these lands is a two-part process requiring both title transfer and title confirmation by patent following survey. Completion of Native entitlement is therefore dependent on survey. Title transfer, called an "interim conveyance" (IC), has been authorized, thereby allowing the Native corporations to derive immediate economic benefit from land development and use. Transfer of an IC, however, does not release the Federal government from the obligation to survey and issue patent.

To date, a total of 34,410,311 acres, or 78 percent, of the Native entitlement has been IC'd to the corporations. Approximately a total of 4.5 million acres, or 13 percent, of selected land has been surveyed and patented to the corporations. In the past, the Department's effort has been directed toward conveying the lands as they were selected by the Native corporations. As the number of acres IC'd approaches the total entitlement, the Department's emphasis is shifting to survey and patent -- a slower, more expensive process. As Native corporations prioritize their remaining land selection decisions, the Department is prepared to expeditiously convey title to the corporations.

The Bureau of Land Management is implementing the patent process to increase efficiency of patent delivery to the Native corporations. Beginning in 1990, the Department will patent between one and three million acres each year to the corporations. Based upon current funding projections for survey, approximately 40 to 50 years will be required to issue patent on all Native selections. Native selections tend to require complex surveys of inholdings and mining claims. The complexity and number of these inholding surveys lengthen the time to complete patent.

With respect to the 20-year tax exempt status provided for undeveloped Native land, section 21(d) of the ANCSA provides:

> (d) Real property interests conveyed, pursuant to this Act, to a native individual, Native group, or Village or regional Corporation which are not developed or leased to third parties, shall be exempt from State and local real property taxes for a period of twenty years after the date of enactment of this Act: Provided That municipal taxes, local real property taxes, or local assessments may be imposed upon leased or developed real property within the jurisdiction of any governmental unit under the laws of the State: ...

Thus, this tax benefit runs 20 years from the date ANCSA was signed into law, December 18, 1971, and not from the date of conveyance of the land to the Native corporation.

Senator MURKOWSKI. You indicated, I think on page 5 of your testimony, that the Department of the Interior has not yet finalized its position on the bill before you.

I assume that we can draw from that that you have not taken a position—I'm a little unclear because you say you basically support the concepts and so forth, but do you have any idea when you will have a position, or is that a fair statement, that you don't have a position?

Mr. BRITT. Well, it's certainly a fair statement, Mr. Chairman. We are deep in the persons internally and have begun some serious consultations with Natives to determine a position. I think we're working as diligently as possible to develop that. We have tried to articulate the concerns with the approach, yet I think also recognizing that we share the concerns that gave rise to the legislation; we share the goals that the legislation is intended to achieve, and that's continued Native control, facilitating that, facilitating protection of the land asset.

I sense that we're more, and may be trying to decide whether we agree with each and every means of implementing that as opposed to achieving the ultimate goal itself.

So I am hopeful that we can reach a position in the next couple of months. I think that we're pleased that we're having some consultation with Natives, that's very helpful to us.

Senator MURKOWSKI. Are you meeting with the Native attorneys representing the regional corporations?

Mr. BRITT. Yes, and I think in some cases the Federation for sure, and in other groups, other regional corporation representatives, including attorneys.

It is extremely helpful to us, as will this hearing record undoubtedly be in bringing to us a sense of what it is the Natives themselves seek to achieve and how important those things are to them.

And we realize, and I can assure you, even in my short time there, I can appreciate the importance of this issue to all Alaskans.

Senator MURKOWSKI. Thank you.

Mr. Chairman, I have two brief questions that I would like to pursue just briefly, if I may.

In your statement you indicated that tax exemption and other immunities go beyond goals of land protection and create problems for conservation management.

I wonder if you could enlighten me in layman's language as to what that means?

Mr. BRITT. Mr. Chairman, I think that our concern is that under the current arrangement—and I realize there have been some problems with the land bank arrangement—as I now understand it, in return for securing some of those tax-exempt statuses, we protect certain conservation management aspects of the use of that land. And as I understand that bill, it would automatically extend the benefits of the tax-exempt status and protection from involuntary pledges and foreclosures on the land.

I guess our concern is maybe we may be losing some of the conservation benefits that we would seek to achieve in exchange for those now under the current land bank arrangement.

Senator MURKOWSKI. Would you explain a little of the position of the Interior with regard to liability of the federal government as associated with the amendment? What is your concern? Why is there liability potentially with the Federal Government, that you, as a steward in the Interior Department, have an obligation to protect the Government from that liability?

Mr. **Britt**. Certainly, Senator, we do have that obligation. We are concerned from the liability standpoint that, you know, as we have tried to indicate that this was indeed a settlement consummated in 1971 and that with regard to that, rights, have attached, corporations were formed, and stock has been issued to individual shareholders. We are looking real closely as you now seek ways to change the rules of that game, the terms of that settlement that, in fact, we do not give rise to those who maybe feel that in terms of their understanding that settlement has been changed such as to expose the Federal Government to some other liabilities.

So it's one that we're looking at real closely. And that goes to issues that you have talked about. We are trying to seek the balance of allowing the majority of Natives to decise how they best want to operate under this arrangement, yet also protecting things, such as dissenters' rights, and their ability—those individual shareholder rights that maybe have already attached, and to make sure that they are not unduly infringed upon.

And so it's an extremely sensitive issue, on that we want to spend a lot of time with. We believe that we're trying to get to the same goals, and yet, since it is a settlement, a king of settlement we're 15 years into the execution of, we very carefully look at changes that may impact on expectations that have already attached to that.

Senator **Murkowski**. That last question. Under the ANILCA law, we're talking about the land bank concept, which is really the first time we have done that. I gather the other experience with land banks was in California agriculture. It didn't work too well.

What is the pro and con and pitfalls of the land bank concept, which would basically put the land in a utilization mode, but it would be nontaxable. Is that right?

Mr. **Britt**. That's correct of the concept. And I know that we have had some problems in consummating the arrangement that was expected in ANILCA, and there have been delays in that.

I'm not sure, Mr. Chairman, that I can—probably in the best position to speak to land banks as a generic concept as to whether or not they—how best they—would work in this circumstance.

Senator **Murkowski**. If you could provide, I think, a little review of that for the record it would be helpful.

Mr. **Britt**. I would be happy to do that.

Senator **Murkowski**. Thank you, Mr. Chairman.

Senator **Wallop**. Thank you.

And that very much, Mr. Britt. We appreciate your long journey up here to give us the Department's view.

Mr. **Britt**. Thank you. It's a pleasure to be here. I'm sure that it will be helpful to us, and we're looking forward to reviewing the record and taking part. So thank you very much.

Senator **Wallop**. Thank you.

The next panel, Mr. Morris Thompson, President, Doyon, Limited; Roy Ewan, President, AHTNA, Inc.; and Mr. Roy Roehl, President Chugach Alaska Corp.

Please proceed, Mr. Thompson.

STATEMENT OF MORRIS THOMPSON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, DOYON, LIMITED

Mr. **Thompson**. Thank you, Mr. Chairman, members of the committee. First of all, Senator Wallop, we welcome you to Alaska.

I'd like to thank you for this opportunity to testify on S. 2065.

My name is Morris Thompson, the President and Chief Executive Officer of Doyon, Limited, one of the 12 Alaska-based regional corporations created pursuant to the Alaska Native Claims Settlement Act.

I will summarize my written text and submit the full text for the record.

Doyon supports S. 2065 as the bill contains crucial and much-needed amendments to ANCSA. While Doyon supports several technical changes to the bill, as outlined in the accompanying supplemental written text to this testimony, we nonetheless feel the proposed legislation in its current form substantially embodies solutions to the major 1991 concerns of the statewide Native community.

And what are the major 1991 concerns? First and foremost, our concerns center around the fundamental issue of continued ownership and control of Native lands by Native people.

As a recipient by far of the greatest amount of land under ANCSA, Doyon's concerns regarding protection of continued ownership and control of that land is likewise great.

S. 2065 contains several provisions which would create, in our view, appropriate protections for our Native lands.

These provisions recognize that not all ANCSA lands were selected for their economic value. Much of Doyon's land was selected because of its subsistence and traditional use values.

By extending continued tax exemption to our undeveloped lands, Congress will recognize that Alaska Natives have essential cultural needs that transcend any economic factors.

Of special note, we believe that one of the most important methods of achieving the objective of Native ownership and control of ANCSA lands in the long-term is through continued alienability restrictions on ANCSA stock.

Thus, we stand with the statewide Native community in endorsing the concept as embodied in S. 2065 that current ANCSA stock restrictions should be extended by Congress indefinitely, or until such time as shareholders of individual corporations vote to end them.

For it is the shareholders themselves who should rightfully make this most important of decisions.

We do not, however, feel that it is necessary for shareholders of regional corporations to have the option, as outlined in Section 4 of S. 2065, of voting to continue stock restrictions.

The language, in our view, is unnecessarily cumbersome and confusing. In addition, Doyon feels that the standard passage regarding votes to lift stock restrictions should be raised to provide that, at the very least, a majority of shareholders must vote affirmatively when considering crucial issues.

With respect to children born after 1971, Doyon supports the provision that would allow ANCSA corporations the option of including as shareholders Native children born after December 18, 1971.

S. 2065 also recognizes the special needs of another very important segment of our population, our elders. By granting special treatment for our elders through exemption of ANCSA dividends for income-based benefit programs and by allowing corporations, in times of restricted stock status, to offer special classes of stock that would benefit our elders, we feel that Congress will be recognizing the importance of this special group within our Native culture.

I made reference above that the Alaska Natives are tribally oriented, and that brings me to my next point.

During these first 15 years of ANCSA implementation, it has become apparent that the corporate form of organization is not in all instances the most relevant form for achieving long-term Native objectives.

There exists today alternative structures available under both Federal and State statutes that may be more applicable to groups of Natives when considering long-term methods of achieving social, cultural, and economic goals.

Let me conclude by saying that we support S. 2065. We believe that it embodies the best interest of all of the Alaska Natives and all our shareholders. We appreciate your coming to our great State and holding hearings. We appreciate Senator Murkowski introducing 2065, for his support, and for his efforts of educating all Alaskans on this important project.

We have amended ANCSA successfully six times before, we look forward to working with you and doing it again. Thank you, members of the committee.

[The prepared statement of Mr. Thompson follows:]

STATEMENT OF

MORRIS THOMPSON, PRESIDENT AND
CHIEF EXECUTIVE OFFICER, DOYON, LIMITED

BEFORE THE

SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION, COMMITTEE ON
ENERGY AND NATURAL RESOURCES

REGARDING

S. 2065, A BILL TO AMEND THE ALASKA NATIVE
CLAIMS SETTLEMENT ACT OF 1971

MAY 24, 1986
FAIRBANKS, ALASKA

I. ORAL TESTIMONY OF DOYON, LIMITED

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I WOULD LIKE TO THANK YOU FOR THIS OPPORTUNITY TO TESTIFY ON S. 2065. MY NAME IS MORRIS THOMPSON AND I AM PRESIDENT AND CHIEF EXECUTIVE OFFICER OF DOYON, LIMITED, ONE OF THE TWELVE ALASKA-BASED REGIONAL CORPORATIONS CREATED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA).

DOYON SUPPORTS S. 2065 AS THE BILL CONTAINS CRUCIAL AND MUCH NEEDED AMENDMENTS TO ANCSA. WHILE DOYON SUPPORTS SEVERAL TECHNICAL CHANGES TO THE BILL -- AS OUTLINED IN THE ACCOMPANYING SUPPLEMENTAL WRITTEN TEXT TO THIS TESTIMONY -- WE NONTHELESS FEEL THE PROPOSED LEGISLATION IN ITS CURRENT FORM SUBSTANTIALLY EMBODIES SOLUTIONS TO THE MAJOR 1991 CONCERNS OF THE STATEWIDE NATIVE COMMUNITY.

AND WHAT ARE THE MAJOR 1991 CONCERNS? FIRST AND FOREMOST, OUR CONCERNS CENTER AROUND THE FUNDAMENTAL ISSUE OF CONINUED OWNERSHIP AND CONTROL OF NATIVE LANDS BY NATIVE PEOPLE. AS THE RECIPIENT OF BY FAR THE GREATEST AMOUNT OF LAND UNDER ANCSA, DOYON'S CONCERNS REGARDING PROTECTION OF CONTINUED OWNERSHIP AND CONTROL OF THAT LAND IS LIKEWISE GREAT.

S. 2065 CONTAINS SEVERAL PROVISIONS WHICH WOULD CREATE, IN OUR VIEW, APPROPRIATE PROTECTIONS FOR OUR NATIVE LANDS. THESE

PROVISIONS RECOGNIZE THAT NOT ALL ANCSA LANDS WERE SELECTED FOR THEIR ECONOMIC VALUE. MUCH OF DOYON'S LAND WAS SELECTED BECAUSE OF ITS SUBSISTENCE AND TRADITIONAL USE VALUES. BY EXTENDING CONTINUED TAX EXEMPTION TO OUR UNDEVELOPED LANDS, CONGRESS WILL BE RECOGNIZING THAT ALASKA NATIVES HAVE ESSENTIAL CULTURAL NEEDS THAT TRANSCEND ANY ECONOMIC FACTORS.

OF SPECIAL NOTE, WE BELIEVE ONE OF THE MOST IMPORTANT METHODS OF ACHIEVING THE OBJECTIVE OF NATIVE OWNERSHIP AND CONTROL OF ANCSA LANDS IN THE LONG-TERM IS THROUGH CONTINUED ALIENABILITY RESTRICTIONS ON ANCSA STOCK. THUS, WE STAND WITH THE STATEWIDE NATIVE COMMUNITY IN ENDORSING THE CONCEPT, AS EMBODIED IN S. 2065, THAT CURRENT ANCSA STOCK RESTRICTIONS SHOULD BE EXTENDED BY CONGRESS INDEFINITELY, OR UNTIL SUCH TIME AS SHAREHOLDERS OF INDIVIDUAL CORPORATIONS VOTE TO END THEM. FOR IT IS THE SHAREHOLDERS THEMSELVES WHO SHOULD RIGHTFULLY MAKE THIS MOST IMPORTANT OF DECISIONS.

WE DO NOT, HOWEVER, FEEL THAT IT IS NECESSARY FOR SHAREHOLDERS OF REGIONAL CORPORATIONS TO HAVE THE OPTION -- AS OUTLINED IN SECTION 4 OF S. 2065 -- OF VOTING TO "CONINUE" STOCK RESTRICTIONS. THE LANGUAGE, IN OUR VIEW, IS UNNECCESSARILY CUMBERSOME AND CONFUSING. IN ADDITION, DOYON FEELS THAT THE STANDARD OF PASSAGE REGARDING VOTES TO LIFT STOCK RESTRICTIONS SHOULD BE RAISED TO PROVIDE THAT, AT THE VERY LEAST, A MAJORITY OF SHAREHOLDERS MUST VOTE AFFIRMATIVELY WHEN CONSIDERING THIS EXTREMELY CRUCIAL ISSUE.

WITH RESPECT TO NATIVE CHILDREN BORN SINCE 1971, DOYON SUPPORTS THE PROVISIONS WITHIN S. 2065 WHICH WOULD ALLOW ANCSA CORPORATIONS THE OPTION OF INCLUDING AS SHAREHOLDERS NATIVE CHILDREN BORN AFTER DECEMBER 18, 1971. FURTHERMORE, WE AGREE THAT CURRENT CORPORATE SHAREHOLDERS SHOULD BE ALLOWED TO OFFER STOCK TO "NEW NATIVES" AT LOW OR NO COST, WITH NO DISSENTER'S RIGHTS TO STOCK REPURCHASE BY THE CORPORATION. AS A TRIBALLY ORIENTED PEOPLE, WE SHOULD BE GIVEN THE OPTION TO EXPRESS OURSELVES AS SUCH THROUGH THE INCLUSION IN THE BENEFITS OF ANCSA ALL NATIVES: THAT IS, THIS AND SUCCEEDING GENERATIONS OF NATIVE CHILDREN. THE CONCEPT IN ANCSA WHICH RECOGNIZES INHERITANCE AS A MEANS OF ACHIEVING THIS OBJECTIVE IS NOT, AND WILL NEVER BE, ADEQUATE.

S. 2065 ALSO RECOGNIZES THE SPECIAL NEEDS OF ANOTHER VERY IMPORTANT SEGMENT OF OUR POPULATION...OUR ELDERS. BY GRANTING SPECIAL TREATMENT FOR OUR ELDERS THROUGH EXEMPTION OF ANCSA DIVIDENDS FOR INCOME-BASED BENEFIT PROGRAMS, AND BY ALLOWING CORPORATIONS - IN TIMES OF RESTRICTED STOCK STATUS - TO OFFER SPECIAL CLASSES OF STOCK THAT WOULD BENEFIT OUR ELDERS, WE FEEL THAT CONGRESS WILL BE RECOGNIZING THE IMPORTANCE OF THIS SPECIAL GROUP WITHIN NATIVE CULTURE.

I MADE REFERRENCE ABOVE THAT ALASKA NATIVES ARE TRIBALLY ORIENTED, AND THAT BRINGS ME TO MY NEXT POINT. DURING THESE FIRST FIFTEEN YEARS OF ANCSA IMPLEMENTATION IT HAS BECOME APPARENT THAT THE CORPORATE FORM OF ORGANIZATION IS NOT, IN ALL

INSTANCES, THE MOST RELEVANT FORM FOR ACHIEVING LONG-TERM NATIVE OBJECTIVES. THERE EXIST TODAY ALTERNATIVE STRUCTURES, AVAILABLE UNDER BOTH FEDERAL AND STATE STATUTES, THAT MAY BE MORE APPLICABLE TO GROUPS OF NATIVES WHEN CONSIDERING LONG-TERM METHODS OF ACHIEVING SOCIAL, CULTURAL, AND ECONOMIC GOALS WITH RESPECT TO WHAT WAS RECEIVED BY THEM UNDER ANCSA. DOYON SUPPORTS FULLY THE CONCEPT, AS CONTAINED IN S. 2065, THAT ANCSA SHAREHOLDERS SHOULD HAVE THE OPTION OF TRANSFERRING THEIR CORPORATE ASSETS, INCLUDING LAND, TO AN ALTERNATIVE ENTITY.

AS A FINAL NOTE SPECIFIC TO THE PROPOSED 1991 CONGRESSIONAL LEGISLATION BEING DISCUSSED HERE TODAY, I WOULD LIKE TO POINT OUT THAT CONCEPTUALLY THERE IS ONE GLARING OMISSION. IT IS THE GOAL OF THE NATIVE COMMUNITY TO KEEP LONG-TERM CONTROL OF ANCSA CORPORATIONS VESTED IN NATIVE PEOPLES. THIS POSITION IS RECOGNIZED THROUGHOUT S. 2065. YET, THERE IS NO PROVISION WHICH WOULD PUT AN END TO THE EROSION OF NATIVE OWNERSHIP THAT HAS OCCURRED AND WILL CONTINUE TO OCCUR AS CORPORATE SHARES ARE PASSED ON TO NON-NATIVES. WE UNDERSTAND FULLY THE WESTERN LEGAL AND PHILOSOPHICAL PRINCIPAL OF INDIVIDUAL RIGHTS. HOWEVER, IN OUR NATIVE SOCIETY, GROUP RIGHTS COME BEFORE THOSE OF THE INDIVIDUAL. WITH THAT IN MIND, WE ASK CONGRESS TO PROVIDE MEANS BY WHICH ANCSA STOCK WOULD NOT BE ALLOWED TO PASS TO NON-NATIVES DURING ANY PERIOD WHEN A CORPORATION'S STOCK IS IN RESTRICTED STATUS.

IN CLOSING, PLEASE LET ME REITERATE THAT DOYON, LIMITED IS IN FAVOR OF S. 2065. AS AN ANCSA REGIONAL CORPORATION WITH THE BEST INTEREST OF OVER 9,000 ALASKA NATIVES AT HEART, WE HAVE BEEN IN A POSITION TO IDENTIFY BOTH THE STRENGTHS AND THE WEAKNESSES OF ANCSA. WE, LIKE YOU, VIEW ANCSA AS AN EXPERIMENT, AND AS SUCH WE RECOGNIZE THAT THE FORMULA FOR SUCCESS AT TIMES WILL NEED CHANGING. WE ARE ASKING FOR SOME MUCH NEEDED CHANGES NOW.

WE ASK THAT YOU REMAIN COGNIZANT OF THE FACT THAT THIS LEGISLATION CONTAINS THE RESULTS OF NEARLY FOUR YEARS OF DELIBERATE EFFORTS ON THE PART OF THE ALASKA NATIVE COMMUNITY. MANY HARD-WON COMPROMISES WITHIN AND AMONG NATIVE GROUPS ARE EMBODIED IN YOUR LEGISLATION. BUT MORE IMPORTANTLY, ALSO EMBODIED IN S. 2065 IS NATIVE CONSENSUS. THIS, AGAIN, WAS HARD-WON BUT - IN OUR VIEW - ESSENTIAL TO THE LEGISLATIVE PROCESS...AND ESSENTIAL TO THE LONG-TERM SUCCESSFUL IMPLEMENTATION OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

THANK YOU.

II. WRITTEN TEXT OF TESTIMONY OF DOYON, LIMITED

A. BACKGROUND - DOYON, LIMITED

DOYON, LIMITED IS THE REGIONAL CORPORATION FOR INTERIOR ALASKA CREATED PURSUANT TO THE TERMS OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1971.

WITH ITS BOUNDARIES CONTAINING NEARLY ALL OF INTERIOR ALASKA -- SOME 200,000 SQUARE MILES, OR ONE-THIRD OF THE ENTIRE STATE, DOYON IS THE LARGEST NATIVE CORPORATION IN LAND AREA. WITHIN THIS VAST REGION, DOYON WILL RECEIVE TITLE TO APPROXIMATELY NINE MILLION ACRES OF LAND IN FEE, AND IN ADDITION WILL RECEIVE SUBSURFACE TITLE TO ANOTHER THREE AND ONE-HALF MILLION ACRES OF VILLAGE LANDS. IN ALL, APPROXIMATELY TWELVE AND ONE-HALF MILLION ACRES OF SURFACE ANS SUBSURFACE ESTATE WILL BE IN ANCSA CORPORATION OWNERSHIP WITHIN THE DOYON REGION ONCE ALL ENTITLEMENTS HAVE BEEN RECEIVED.

DOYON'S CERTIFIED ENROLLMENT AS OF DECEMBER 31, 1981 IS 9,061 SHAREHOLDERS, MOST OF WHOM ARE ATHABASCAN INDIANS EITHER WITH RESIDENCE IN AND/OR CULTURAL TIES TO OUR REGION. SOME 75% OF THESE SHAREHOLDERS ARE ALSO SHAREHOLDERS IN ONE OF 25 VILLAGE CORPORATIONS WHICH REPRESENT 34 CERTIFIED ANCSA VILLAGES.

B. ANCSA, GENERAL

AS A REGIONAL CORPORATION CHARGED WITH THE FORMIDABLE TASK OF IMPLEMENTING THE TERMS OF ANCSA FOR THE BETTERMENT OF OVER 9,000 INDIVIDUALS, DOYON HAS BEEN IN A POSITION TO IDENTIFY BOTH

THE STRENGTHS AND WEAKNESSES OF THE CLAIMS SETTLEMENT.

MUCH HAS BEEN SAID AND WRITTEN OVER THE YEARS WITH REGARD TO THE MANY DIFFICULTIES ENCOUNTERED DURING THE FIRST 15 YEARS OF ANCSA IMPLEMENTATION. AS AN ALASKA BUSINESS CORPORATION, THE ROAD TO ECONOMIC SECURITY HAS BEEN A ROCKY ONE. AS A NATIVE CORPORATION, THE TASK OF MARRYING THE CONCEPTS OF AN ECONOMIC INSTITUTION WITH THE SOCIAL AND CULTURAL NEEDS OF OUR SHAREHOLDER POPULATION HAS BEEN FRAUGHT WITH DIFFICULTIES AS WELL.

ALTHOUGH THE PROBLEMS AND DIFFICULTIES OF IMPLEMENTING ANCSA ARE LEGION, THEY, PERHAPS, ARE NOT AS IMPORTANT AS ARE THE FEARS AND ANXIETIES THAT THEY HAVE CREATED WITHIN THE NATIVE COMMUNITY. FOR IT IS THESE FEARS, ALONG WITH THE PROBLEMS AND DIFFICULTIES THAT PRODUCED THEM, THAT HAVE GIVEN RISE TO THE "1991" LEGISLATION THAT IS CURRENTLY PENDING BEFORE CONGRESS.

C. "1991" - THE PROCESS

IN EARLY 1983, THE NATIVE COMMUNITY BEGAN TO DISCUSS COLLECTIVELY THE WIDESPREAD FEARS RELATIVE TO THE PENDING 1991 DATE WHEN, AS CURRENT LAW STANDS, THE ALIENABILITY RESTRICTIONS ON ANCSA CORPORATION STOCK WILL BE LIFTED. THE QUESTION WAS AND IS: "WHAT WILL THE IMPLICATIONS BE FOR LONG-TERM OWNERSHIP AND CONTROL OF NATIVE CORPORATIONS, AND THUS NATIVE LANDS, IF ANCSA STOCK IS ALLOWED TO GO UNRESTRICTED?"

AS QUESTIONS AND FEARS MOUNTED, IT BECAME EVIDENT THAT ANSWERS TO QUESTIONS WOULD NOT BE FOUND EASILY AND THAT NOT ALL POTENTIAL SOLUTIONS COULD FIT THE VARYING NEEDS WITHIN THE STATEWIDE NATIVE COMMUNITY.

IN DOYON'S OPINION, THE THREE-YEAR PROCESS THAT HAS BEEN USED TO ARRIVE AT A CONSENSUS ON 1991 ISSUES AND SOLUTIONS HAS BEEN APPROPRIATE AND THOROUGH. 1991 HAS BEEN A MAJOR THEME OF THE PAST THREE REGULAR ALASKA FEDERATION OF NATIVES CONVENTIONS, AND WAS THE SOLE TOPIC OF DISUSSION OF A SPECIAL TWO-DAY AFN CONVENTION HELD IN MARCH OF 1985. AT THE LAST AFN CONVENTION (OCTOBER, 1985), WHERE THE GENERAL OUTLINE OF THE 1991 LEGISLATION WAS CONSIDERED AND RATIFIED NEARLY UNANIMOUSLY, ALL REGIONS WHERE REPRESENTED BY BOTH PROFIT CORPORATIONS AND NON-PROFIT ASSOCIATIONS, AND OVER THREE-FOURTHS OF THE ANCSA VILLAGE CORPORATIONS AND VILLAGE COUNCILS STATEWIDE WERE PRESENT WITH VOTING DELEGATES.

IN OUR OWN REGION, THREE SUCCESSIVE REGIONAL 1991 CONFERENCES HAVE BEEN HELD IN AS MANY YEARS, AND 1991 HAS BEEN THE MAIN AGENDA ITEM OF OVER 50 SEPERATE VILLAGE/COMMUNITY WORKSHIPS DURING THE PAST TWO YEARS.

D. SUPPORT OF SPECIFIC S. 2065 PROVISIONS

DOYON SUPPORTS S. 2065 AS IT CONTAINS, SUBSTANTIALLY, SOLUTIONS TO PROBLEMS THAT THE NATIVE COMMUNITY -- AS A WHOLE -- HAVE IDENTIFIED WITH REGARD TO THE OVERRIDING 1991 ISSUES AND CONCERNS. SPECIFICALLY, THE 1991 ISSUES OF GREATEST CONCERN TO DOYON AND HOW THEY ARE SATISFACTORILY ADDRESSED IN S. 2065 ARE AS FOLLOWS:

1. CONTINUED STOCK ALIENABILITY RESTRICTIONS. AS PREVIOUSLY STATED, THE OVERRIDING CONCERN OF THE NATIVE COMMUNITY WITH REGARD TO 1991 ISSUES IS THE POTENTIAL LOSS OF NATIVE

OWNERSHIP AND CONTROL OF NATIVE CORPORATIONS -- AND THUS NATIVE LANDS -- AFTER 1991. IT HAS LONG BEEN FELT THAT THE 20-YEAR TIME PERIOD ORIGINALLY SELECTED BY CONGRESS WAS ARBITRARY, AT BEST. HISTORY HAS SHOWN THAT A DEFINED TIME PERIOD SUCH AS THIS, APPLIED ACROSS-THE-BOARD, DOES NOT MAKE SENSE WHEN CONSIDERING THE VARIED NEEDS AND DIFFERENCES WITHIN AND AMONG NATIVE GROUPS.

THUS, DOYON STANDS WITH THE STATEWIDE NATIVE COMMUNITY IN SUPPORT OF PROVISIONS THAT WOULD INDEFINITELY EXTEND ANCSA STOCK RESTRICTIONS UNTIL AND UNLESS SHAREHOLDERS OF INDIVIDUAL ANCSA CORPORATIONS THEMSELVES DECIDE WHEN, AND TO WHAT EXTENT, RESTRICTIONS ON STOCK SHOULD BE LIFTED. SEC. 4 OF S. 2065 CONTAINS PROVISIONS THAT WOULD ACHIEVE THIS OBJECTIVE.

2. ADDITIONAL PROTECTIONS FOR NATIVE LANDS. AS SECURING OWNERSHIP AND CONTROL OF NATIVE LANDS BY NATIVES WAS THE CENTRAL POINT OF THE 1971 ACT, ENSURING CONTINUED NATIVE OWNERSHIP AND CONTROL OF NATIVE LANDS HAS GIVEN RISE TO MANY OF THE 1991 CONCERNS.

THE PREVIOUS SUBSECTION STATES THAT EXTENDING STOCK ALIENABILITY RESTRICTIONS WOULD GO FAR IN ENSURING LONG-TERM OWNERSHIP AND CONTROL OF A MAJORITY OF ANCSA LANDS BY NATIVES. HOWEVER, EVEN WITH CONTROL OF THE CORPORATIONS IN NATIVE HANDS, THERE WOULD REMAIN WAYS BY WHICH ANCSA LANDS CAN SLIP FROM NATIVE OWNERSHIP. TAXATION, ESPECIALLY, ALONG WITH JUDGMENTS AND ADVERSE POSSESSION, ARE ON-GOING THREATS TO CONTINUED NATIVE OWNERSHIP OF ANCSA LANDS. THAT IS, A SUBSTANTIAL AMOUNT OF ANCSA LANDS WERE SELECTED BY THE CORPORATIONS FOR NON-ECONOMIC PURPOSES. BECAUSE THESE LANDS WILL LIKELY REMAIN IN AN

UNDEVELOPED STATUS FOR THE FORSEEABLE FUTURE, THEY WILL NOT BE ABLE TO "PAY THEIR WAY" SHOULD A TAXING AUTHORITY CHOOSE TO USE ANCSA LANDS AS A PARTIAL BASIS OF FUNDING.

CONGRESS FORESAW THIS POTENTIAL CONFLICT, AND PARTIALLY ADDRESSED IT BY MAKING UNDEVELOPING ANCSA LANDS NON-TAXABLE UNTIL 1991. BECAUSE LAND CONVEYANCES TO ANCSA CORPORATIONS WAS A MUCH SLOWER PROCESS THAN ORIGINALLY ENVISIONED, CONGRESS -- WITH FORESIGHT ONCE AGAIN -- AMENDED THE ACT TO PROVIDE NON-TAXABLE STATUS FOR ANCSA LANDS FOR 20 YEARS AFTER CONVEYANCE. CONGRESS FURTHER AMENDED THE ACT TO PROVIDE A MEANS BY WHICH NATIVE CORPORATIONS COULD CONCEIVABLY GAIN PERPETUAL NON-TAXABLE STATUS FOR THEIR UNDEVELOPED LANDS -- I.E. THE ALASKA LAND BANK.

HOWEVER, THE SYSTEM AS IT CURRENTLY STANDS HAS PROVEN TO BE UNWORKABLE. AFTER SIX YEARS OF THE ALASKA LAND BANK'S EXISTENCE, NOT ONE ACRE OF ANCSA LAND HAS BEEN SUCCESSFULLY NEGOTIATED INTO A LAND BANK AGREEMENT. THIS SITUATION HAS NOT ARISEN THROUGH ANY LACK OF TRYING ON THE PART OF ANCSA CORPORATIONS.

IN DOYON'S OPINION, IT IS ESSENTIAL THAT LAND BANK PROTECTIONS CURRENTLY AVAILABLE THROUGH ANCSA, AS AMENDED, SHOULD BE EXTENDED AUTOMATICALLY BY CONGRESS TO ALL UNDEVELOPED ANCSA LANDS. SEC. 10 OF S. 2065 CONTAINS PROVISIONS THAT WOULD ACHIEVE THIS OBJECTIVE.

3. INCLUSION OF NATIVES BORN SINCE 1971. ANOTHER MAJOR PROBLEM WITH ANCSA WHICH HAS BEEN IDENTIFIED AND ADDRESSED BY THE STATEWIDE NATIVE COMMUNITY IS THAT HAVING TO DO WITH THE LACK OF PROVISIONS FOR ADEQUATELY INCLUDING NATIVES BORN SINCE 1971 AS BENEFICIARIES OF ANCSA.

IT IS GENERALLY FELT THAT CONGRESS ORIGINALLY ENVISIONED THAT INHERITANCE OF STOCK WOULD BE ADEQUATE AS A MEANS FOR INCLUDING NATIVES BORN AFTER DECEMBER 18, 1971. WHAT THIS PROVISION HAS DONE, IN ACTUALITY, IS TO CREATE TWO DISTINCT CLASSES OF ALASKA NATIVES: I.E. THOSE WHO ARE SHAREHOLDERS IN ANCSA CORPORATIONS AND THUS HAVE A DIRECT TIE TO THEIR NATIVE LANDS; AND THOSE WHO MUST WAIT - IN SOME CASES UNTIL MIDDLE AGE - TO HAVE THESE SAME TIES AND TO REAP WHATEVER ECONOMIC, SOCIAL AND CULTURAL BENEFITS MIGHT BE AVAILABLE THROUGH DIRECT PARTICIPATION IN ANCSA.

AS A TRIBAL PEOPLE, ALASKA NATIVES ARE UNDERSTANDABLY CONCERNED WITH REGARD TO THIS UNEQUAL TREATMENT AMONG ALASKA NATIVES. DOYON SUPPORTS 1991 AMENDMENTS THAT WOULD PROVIDE OPTIONS FOR THOSE GROUPS OF NATIVES - NOW REPRESENTED BY CORPORATIONS - THAT WISH TO INCLUDE AS DIRECT BENEFICIARIES OF ANCSA CHILDREN BORN SINCE 1971 AND THOSE YET TO BE BORN. SEC. 3 OF S. 2065 CONTAINS PROVISIONS THAT WOULD ACHIEVE THIS OBJECTIVE.

4. SPECIAL PROVISIONS FOR ELDERS. ELDERS HAVE ALWAYS HELD A SPECIAL PLACE IN ALASKA NATIVE CULTURES. WITH RESPECT TO ANCSA, THERE HAS BEEN A GROWING CONCERN THAT MANY OF OUR ELDERS HAVE, AND WILL CONTINUE TO, PASS ON BEFORE REALIZING ANY REAL BENEFITS FROM ANCSA.

IN ADDITION, WHAT LITTLE BENEFITS MIGHT BE FORTHCOMING TO THE GROUP ARE IN MOST INSTANCES ADVERSELY OFFSET BY OTHER MEANS. THAT IS, MOST OF OUR ELDERS ARE RECIPIENTS OF SOME TYPE OF INCOME-BASED STATE AND/OR BENEFIT PROGRAM(S). WHEN RECEIVING

DIVIDENDS OF CASH OR LAND FROM ANCSA CORPORATIONS, MORE LIKELY THAN NOT THEIR BENEFITS FROM OTHER PROGRAMS WILL BE OFFSET ACCORDINGLY.

OVER THE PAST THREE YEARS, THE NATIVE LEADERSHIP HAS ATTEMPTED TO DEVISE WAYS BY WHICH CONGRESS MIGHT AMEND ANCSA TO BETTER BENEFIT ELDERS. DOYON SUPPORTS AMENDMENTS TO ANCSA THAT WOULD: ALLOW CORPORATIONS TO ISSUE ADDITIONAL SHARES OF NATIVE COMMON STOCK TO ELDERS; ALLOW CORPORATIONS TO ISSUE NEW CLASSES OF STOCK TO ELDERS; AND EXEMPT FROM INCOME CONSIDERATIONS NEW ISSUANCES OF STOCK TO ELDERS AND ANY DIVIDENDS PAID THEREON. SEC.'S 3 AND 16 OF S. 2065 CONTAIN PROVISIONS THAT WOULD ACHIEVE THESE OBJECTIVES.

5. ALTERNATIVES TO THE CORPORATE STRUCTURE. DURING THE PAST 15 YEARS OF ANCSA IMPLEMENTATION IT HAS BECOME APPARENT THAT FOR MANY GROUPS -- VILLAGES ESPECIALLY -- THE ALASKA BUSINESS CORPORATION MAY NOT BE THE MOST DESIRABLE VEHICLE BY WHICH THE GOALS OF ANCSA CAN BE ACHIEVED. THE CORPORATE FORM, BEING IN MOST INSTANCES FOREIGN TO ALASKA NATIVES, HOLDS MANY RISKS WITH REGARD TO THE LONG-TERM OBJECTIVE OF KEEPING OWNERSHIP AND CONTROL OF NATIVE LANDS IN THE HANDS OF NATIVE PEOPLE.

DOYON SUPPORTS AMENDMENTS TO ANCSA THAT WOULD ALLOW CORPORATE SHAREHOLDERS THE OPTION OF TRANSFERRING A PORTION OR ALL OF THEIR ANCSA CORPORATE ASSETS, INCLUDING LAND, TO AN ALTERNATE FORM OF ORGANIZATION. SEC. 5 OF S. 2065 CONTAINS PROVISIONS THAT WOULD ACHIEVE THIS OBJECTIVE.

6. ANCSA AND AMENDMENTS NEUTRAL ON NATIVE SOVEREIGNTY. S. 2065 AND ITS COUNTERPART, H.B. 4162, HAVE COME UNDER ATTACK AS

HAVING BEEN DESIGNED TO PROMOTE THE CAUSE OF ALASKA NATIVE SOVEREIGNTY AND THUS THE EVENTUAL CREATION OF INNUMERABLE "SOVEREIGN NATIONS" WITHIN ALASKA'S BORDERS.

THIS ARGUEMENT IS BUILT AROUND INTERPRETATIONS OF SEVERAL SECTIONS WITHIN THE BILL, MOST NOTABLY SEC. 7. THIS SECTION CONTAINS LANGUAGE THAT, DOYON BELIEVES, DECLARES ANCSA NEUTRAL ON THE ISSUE OF NATIVE SOVEREIGNTY. DOYON SUPPORTS THE INCLUSION OF LANGUAGE AS CONTAINED IN SEC. 7 OF S. 2065 IN 1991 LEGISLATION PASSED BY CONGRESS.

E. SUPPORT OF AMENDMENTS TO S. 2065

ALTHOUGH S. 2065 CONTAINS NEARLY ALL OF THE MAJOR AND MINOR 1991 AMENDMENTS TO ANCSA THAT DOYON FEELS ARE NEEDED, THERE REMAIN AREAS OF CONCERN THAT THE COMMITTEE, IN OUR OPINION, SHOULD SERIOUSLY ADDRESS. THESE AREAS ARE:

1. NONTRANSFERABILITY OF RESTRICTED STOCK OTHER THAN TO NATIVES. WHILE CONGRESS INTENDED IN 1971 TO MAKE ANCSA BENEFITS AVAILABLE TO ALASKA NATIVES, THERE WAS NO SUCH INTENT, IN DOYON'S OPINION, THAT NON-NATIVES SHOULD BENEFIT DIRECTLY.

ALTHOUGH SHAREHOLDERS CANNOT SELL OR OTHERWISE TRANSFER THEIR STOCK UNTIL AFTER DECEMBER 18, 1991 AS THE LAW CURRENTLY STANDS, STOCK IS GOING NOW -- AND HAS BEEN SINCE THE CORPORATIONS WERE FORMED -- TO NON-NATIVES. THIS HAPPENS IN TWO GENERAL WAYS: NON-NATIVES CAN INHERIT STOCK UPON THE DEATH OF A SHAREHOLDER; AND COURTS CAN AWARD ANCSA STOCK TO A NON-NATIVE AS PART OF A DIVORCE SETTLEMENT.

AFTER 1991, UNDER EXISTING LAW, STOCK CAN BE TAKEN BY A

COURT TO PAY DEBTS OF ANY KIND.

AS PART OF THE 1991 PROCESS, ALASKA NATIVES IN CONVENTION OVERWHELMINGLY ADOPTED THE CONCEPT THAT ANCSA SHOULD BE AMENDED TO PROHIBIT TRANSFER OF NATIVE STOCK BY ANY MEANS TO NON-NATIVES WHO ARE NOT DESCENDANTS OF NATIVES, DURING ANY PERIOD IN WHICH A CORPORATION'S STOCK IS SUBJECT TO ALIENABILITY RESTRICTIONS. S. 2065, HOWEVER, CONTAINS NO SUCH PROVISION.

DOYON STRONGLY SUPPORTS AN AMENDMENT TO S. 2065 THAT WOULD PROHIBIT TRANSFER, BY ANY MEANS, OF NATIVE STOCK TO NON-NATIVES DURING ANY PERIOD IN WHICH A CORPORATION'S STOCK IS SUBJECT TO ALIENABILITY RESTRICTIONS.

2. VOTING IN REGARD TO LIFTING OF STOCK RESTRICTIONS.

a. STANDARD OF PASSAGE: AS DRAFTED, S. 2065 CREATES A NUMBER OF OPTIONS THAT NATIVE GROUPS CAN ELECT TO UTILIZE WITH REGARD TO FUTURE IMPLEMENTATION OF ANCSA. THIS OPTIONAL APPROACH IS ONE AGREED UPON AS APPROPRIATE BY THE NATIVE COMMUNITY. IN EXERCISING THESE OPTIONS THROUGH SHAREHOLDER VOTES, CERTAIN MINIMUM LIMITS ARE SET HAVING TO DO WITH QUORUM REQUIREMENTS AND STANDARDS OF PASSAGE. AGAIN, THESE PROCEDURES ARE IN LINE WITH THE GENERAL THINKING OF THE NATIVE COMMUNITY STATEWIDE.

IN CONSIDERING THE CENTRAL THEME AND MOST BASIC ISSUE OF 1991 -- CONTINUANCE PAST 1991 OF STOCK ALIENABILITY RESTRICTIONS -- CONGRESS IS PROPOSING THAT THESE RESTRICTIONS SHOULD CONTINUE INDEFINITELY OR UNTIL SUCH TIME AS THEY ARE LIFTED THROUGH A SHAREHOLDER VOTE. YET THE LEGISLATION AS PRESENTLY WRITTEN ALLOWS HOLDERS OF AS LITTLE AS APPROXIMATELY 26% OF THE OUTSTANDING SHARES OF VOTING STOCK IN A CORPORATION TO EXERCISE

THIS OPTION ON BEHALF OF ALL SHAREHOLDERS.

IT IS OUR OPINION THAT THIS APPARENT INCONSISTENCY NEEDS TO BE CORRECTED. DOYON SUPPORTS STRONGLY THE CONCEPT THAT THE MINIMUM STANDARD OF PASSAGE RELATIVE TO SHAREHOLDER VOTES IN EXERCISE OF THE OPTION TO LIFT STOCK RESTRICTIONS BE AN AFFIRMATIVE VOTE OF A MAJORITY OF A CORPORATION'S OUTSTANDING VOTING SHARES OF NATIVE COMMON STOCK.

b. VOTE TO "CONTINUE" STOCK RESTRICTIONS (SEC. 4): IN DOYON'S OPINION, THE LANGUAGE IN SEC. 4 REFERRING TO VOTING ON THE STOCK ALIENATION QUESTION IS UNNECESSARY AND CONFUSING. A LARGE MAJORITY OF THE STATEWIDE NATIVE COMMUNITY IS IN AGREEMENT THAT CONGRESS SHOULD EXTEND INDEFINITELY CURRENT ALIENABILITY RESTRICTIONS, AND THAT THOSE RESTRICTIONS CAN ONLY BE REMOVED BY A VOTE OF THE CORPORATION'S SHAREHOLDERS. BECAUSE OF THIS, WE FEEL THAT IT IS REDUNDANT TO INCLUDE LANGUAGE WHICH GIVES SHAREHOLDERS THE OPTION TO "CONTINUE" THE RESTRICTIONS.

THIS CONFUSING LANGUAGE CAME AS A RESULT OF THE DESIRES OF ONE REGIONAL CORPORATION TO HAVE "OPT IN"/"OPT OUT" PROVISIONS. SINCE THE REGION IN QUESTION NOW HAS ITS OWN SECTION (SEC. 6) WHICH EFFECTIVELY ADDRESSES ITS CONCERNS, WE BELIEVE THAT THE ABOVE-REFERENCED LANGUAGE IN SECTION 4 IS UNNECESSARY. IN ORDER THAT S. 2065 BE AS UNDERSTANDABLE AS POSSIBLE, AND IN ORDER THAT IT EFFECTIVELY ADDRESSES THE CONCERNS OF THE NATIVE COMMUNITY AS A WHOLE, DOYON STRONGLY RECOMMENDS AMENDMENTS TO SECTION 4 CLARIFYING THAT CORPORATIONS CAN ONLY VOTE TO TERMINATE STOCK ALIENATION RESTRICTIONS.

3. ANCSA AND AMENDMENTS ARE INDIAN LEGISLATION. IT IS THE

OPINION OF THE NATIVE COMMUNITY THAT THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND AMENDMENTS, INCLUDING THOSE AS EMBODIED IN S. 2065, ARE ENACTED BY CONGRESS PURSUANT TO ITS PLENARY AUTHORITY UNDER THE COMMERCE CLAUSE TO REGULATE INDIAN AFFAIRS. THUS, THEY CONSTITUTE INDIAN LEGISLATION. THIS POSITION HAS BEEN FOUND TO BE TRUE BY THE COURTS ON NUMEROUS OCCASIONS SINCE 1971.

DOYON SUPPORTS INCLUSION IN THE FINAL 1991 BILL PASSED BY CONGRESS OF AMENDING LANGUAGE WHICH WOULD MAKE A CLEAR STATEMENT OF CONGRESSIONAL INTENT RECOGNIZING ANCSA AND AMENDMENTS AS INDIAN LEGISLATION.

F. CONCLUSION: IN SUPPORT OF S. 2065

AS AN ACTIVE PARTICIPANT IN THE PROCESS FROM WHICH S. 2065 WAS FORMED, DOYON STRONGLY SUPPORTS THIS BILL. WE FEEL THAT THE BILL SUBSTANTIALLY ADDRESSES THE 1991 CONCERNS OF THE STATEWIDE NATIVE COMMUNITY, PROVIDING OPTIONS THAT REFLECT THE DIFFERENCES IN NEEDS AMONG THE VARIOUS NATIVE REGIONAL AND VILLAGE GROUPS.

THE PROPOSED LEGISLATION LACKS CERTAIN PROVISIONS, HOWEVER, THAT DOYON BELIEVES WOULD GIVE IT GREATER STRENGTH AND MORE WIDESPREAD ACCEPTANCE WITHIN THE NATIVE COMMUNITY. THESE PROVISIONS ARE OUTLINED IN THE PRECEEDING SECTION OF THIS TESTIMONY, AND WE STRONGLY URGE THE COMMITTEE TO CONSIDER INCLUSION OF THEM IN THE FINAL BILL REPORTED TO THE FULL SENATE.

Senator **Wallop**. Thank you, Mr. Thompson.
Mr. Ewan.

STATEMENT OF ROY EWAN, PRESIDENT, AHTNA, INC.

Mr. **Ewan**. Good morning, Mr. Chairman, and welcome to Alaska also.

I'm Roy Ewan. I'm President of AHTNA, Inc., one of the smallest Native corporations. I don't have a written statement, by the way, I'm just going to talk.

We are one of the smallest corporations, but one of the successful corporations. We have been profitable from the very beginning. And I think this proves that ANCSA can work.

But in the last few years, the Native people have been meeting, as you will hear probably from the Native community today, on the issue of 1991. And we feel it very important that we amend the ANCSA.

I think that we have considered, discussed the issue long enough among ourselves in the villages within the regions and statewide. We feel that this has the consensus of the majority of Native people of Alaska.

The basic provisions, as will be pointed out, will be land protection, options for stock alienation, issues of stocks to new Natives, and probably to elders, and for other purposes, provisions for transfer of assets to another entity. I don't think these proposed amendments deal with—has no intent to dealing with sovereignty issues, which probably will be discussed a lot today.

Overall, I feel that the 1991 amendments give the meaning of self-determination to Native people, in that it gives options to do the things that they want to do.

AHTNA feels that the sooner the 1991 amendments become law the better, because we will be in better shape to do our planning for the future.

Right now there is a lot of uncertainties within the Native communities. I could go on and on about this, it's a long subject, and we have dealt with it for four years, but I appreciate your coming here and hearing the Native people. Thank you.

Senator **Wallop**. Mr. Ewan, thank you. It is a time consuming subject and not well suited to three minutes anymore than a corporation may be suited to a tribal structure, but that's the only time structure I've got at the moment and I have to stick by that. I appreciate your consideration of that.

Mr. Roehl.

STATEMENT OF ROY ROEHL, PRESIDENT, CHUGACH ALASKA CORP.

Mr. **Roehl**. Thank you. Mr. Chairman and distinguished members of this committee. My name is Roy Roehl. I'm the Chairman of the Chugach Alaska Corporation 1991 and Shareholder Relations Committee.

I'll just highlight this. You have a copy of written testimony. I will just highlight this.

Chugach, we're the 9th regional corporation under ANCSA. We're located promarily in the Prince William Sound. We have approximately 2,200 shareholders, and today Chugach is here to offer support of 2065. And we do so for a variety of reasons.

One is that to amend ANCSA, Chugach feels is one of the greatest collective efforts ever undertaken by the Alaska Native community.

Chugach Alaska Corporation has participated in the conferences, conventions and meetings held to define the proposal, to address the difficulties we have all encountered in implementing the provisions of ANCSA.

We have also carried it to our villages. One of the reasons we feel further that we want to amend ANCSA, it has taken a while for the Alaska Natives to become familiar with the intricacies and pitfalls of ownership in the corporate form.

And finally, the amendments to ANCSA, as embodied in S. 2065, acknowledges a unique relationship between the corporaions and their stockholders.

The equity interest of our shareholders are not measured in dollars or in percentages, but in generations and in thousands of years.

Our cultural heritage is dynamic. We have always adapted to the conditions around us. As we move forward, we need to be able to continue to change at our own pace. We need flexibility in the corporate structure that will permit our stockholders to shape their collective future. This flexibility will give our stockholders the ability to move forward without losing our path.

Chugach Alaska Corporation believes the passage of S. 2065 will give us the tools to meet the future.

Thank you.

[The prepared statement of Mr. Roehl follows:]

U.S. SENATE
SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION
TESTIMONY FROM 1991 HEARINGS ON H.R. 4162 TO AMEND
THE ALASKA NATIVE CLAIMS SETTLEMENT ACT
FAIRBANKS, ALASKA - MAY 24, 1986

Mr. Chairman and distinguished members of this Committee: Chugach Alaska Corporation, the ninth Regional Native corporation established by the Alaska Native Claims Settlement Act, is located chiefly on the Prince William Sound in Southcentral Alaska. We have some 2,200 shareholders and, under our 1982 Settlement Agreement, will eventually own the surface and subsurface estate to 371,832 acres and the subsurface rights to some 500,000 additional acres. We are pleased to offer our corporate support on behalf of HR 4162.

This bill, to amend the Alaska Native Claims Settlement Act, represents one of the greatest collective efforts ever undertaken by the Alaska Native community. Chugach Alaska Corporation has actively participated in the conferences, conventions, and meetings held to define an approach to address the difficulties we have all encountered in implementing the provisions of ANCSA. A common approach has been developed, represented by these legislative proposals, which does much to enhance the original and subsequent legislation. The amendments before you today have been submitted to, and discussed in, every village in our Region. This process has been repeated across the state.

It has taken time for the Native peoples of Alaska to become familiar with the intricacies and pitfalls of ownership in the corporate form. It has taken years of experience, some of it difficult and disappointing, to identify the changes needed to effectuate the intention of ANCSA--"to achieve a fair and just settlement of Native claims in Alaska". The willingness of Congress to reconsider means of implementing the settlement demonstrates a fidelity to the concept of a fair settlement for the Native peoples of Alaska.

HR 4162 goes a long way toward reconciling the differences between the corporate model and the traditional culture of Alaska's Native peoples. Provisions that permit the issuance of stock without cost in recognition of the debt owed to elders is an important example of the convergence of traditional values and the corporate model. Recognition of communal identity and ownership patterns is also included, which allows the enfranchisement of descendants and removes the stigma that has somehow come to be associated with those Native children born after 1971. The resolution of the conflicts between cultural values and the economic necessities of profit-making entities is the key to "a fair and just settlement".

The amendments to ANCSA, as embodied in HR 4162, acknowledge the unique relationship between the corporations and their stockholders. The equity interests of our stockholders are not measured in dollars or in percentages, but in generations and in thousands of years. Our cultural heritage is dynamic. We have always adapted to the conditions around us. As we move forward, we need to be able to continue to change at our own pace. We need flexibility in the corporate structure that will permit our stockholders to shape their collective future. This flexibility will give our stockholders the ability to move forward without losing our past. Chugach Alaska Corporation believes the passage of HR 4162 will give us the tools to meet the future.

Respectfully submitted,

ROY F. ROEHL
Chairman - 1991/Shareholders Committee
Chugach Alaska Corporation

Senator **Wallop**. Thank you, Mr. Roehl.

I recall a moment in time when Chugach was looking at Wyoming coal as one of the means of exercising their monetary credits, then you went to Alexandria, Virginia. I think you would have done better with Wyoming coal, although, I think your judgment was upheld by Alexandria and the coal markets these days.

Senator Murkowski.

Senator **Murkowski**. Thank you, Mr. Chairman.

I probably should address this question to Mr. Morris Thompson of Doyon. Concerning the impact on your corporation if your lands were taxable, under the current law they're taxable after 20 years. And it's our assumption that it's 20 years after you receive title to a portion that taxation would occur, and the vast holdings of Doyon, which are—how many acres? I don't recall.

Mr. **Thompson**. Twelve and a half, Senator

Senator **Murkowski**. Twelve and a half million acres.

So you received just a little over a quarter of the land mass of the Claim Settlement. If you had to pay taxes on that, what would you do?

Mr. **Thompson**. Senator, there's currently some misnomers going around about taxes. Doyon, today, pays taxes to the North Star Borough. We own property in North Pole; we own property here in Doyon; we have three buildings in the community that we're paying taxes on, these are property taxes.

To the North Slope Borough, we have two drilling rigs that are operating in Prudhoe Bay, and a camp of substantial value that we're paying a millage rate to the North Slope Borough on.

We have ITAK, which is another subsidiary company of Doyon, a joint venture, in a partnership that pays taxes. Our investments, we're invested in United Bank. Their currently paying property taxes to the city of Fairbanks and to the municipality of Anchorage.

So the businesses that we're currently in are revenue-producing for the municipalities in which we function.

Currently, as the Department stated, we have about three-quarters of our entitlement. Currently under Alaska State statutes, there is no statewide property tax. A majority of land that Doyon now holds is outside of any organized borough or municipal government, so it's not subject to taxes as we currently know it today.

To kind of move ahead and assume that—or to look down the road a little bit; if there was a borough formed or some municipal government formed, we would hope that those lands that are revenue-producing, we hope to have some in those regions. We would be paying taxes just as we are to the municipalities and boroughs that I mentioned.

So it's a very hard question to try to theorize, Senator, to say that 15 years from now we may have some taxes on our land. We have taxes today. We just have to wait to see what the taxes will be and hope that our village corporations and regional corporations will be in a position to generate revenue to pay those taxes.

I hope that helps, sir.

Senator **Murkowski**. It does help. And I certainly agree with you that it's a bit of a paradox.

With regard to land within the borough that you may hold that's undeveloped currently, not producing revenue, currently you're not paying taxes on that, I assume.

Mr. THOMPSON. Currently, Senator all the property that we own within both these boroughs we're paying taxes on.

I do want to make a slight qualification though in that that was purchased land, not land obtained from the Settlement.

To my knowledge, Doyon does not own land within the North Star Borough that we received under the Settlement Act. I could be wrong, but I'm almost certain we have no property from the Settlement Act within the borough. All the land that we're paying taxes on we purchased or built the buildings. We've got three buildings and about some 70-some acres within the North Star Borough.

Senator MURKOWSKI. Which you pay taxes on.

Mr. THOMPSON. Which we pay taxes on.

Senator MURKOWSKI. My concern and my rationale in pressing this area is to establish for the record the inconsistency in cases where there are Native holdings within boroughs in the State of Alaska, and they are nontaxable in some cases. And the question of the appropriateness of them remaining nontaxable is a legitimate consideration, and it's one that the committee will have to address as we begin the mark-up.

We have within the Anchorage Borough, we have within the Juneau Borough specific instances where there are lands within the borough that theoretically receive the benefits of the borough that are nontaxable. The dilemma, of course, is when you move outside the borough and you have the subsistence land, the realization that if that were ever taxable how would it generate any revenue? It probably couldn't support revenue, so you would have to sell the land to pay the taxes, which would defeat the purposes of subsistence, and away you go.

So I don't know whether either you, Mr. Ewan, or Mr. Roehl, have any comments on this area, but if you do, I would appreciate it for the record. That is, the disparity between lands within the borough and lands without and the question of taxation. Because under this proposal, those lands would not be taxed unless they were developed.

Mr. EWAN. I'd like to make a comment for AHTNA.

Senator MURKOWSKI. Please.

Mr. EWAN. We do not have a lot of property in boroughs, we're outside in an unorganized area. We would be willing to, just as Morris Thompson here explained, wherein, if we owned property within a borough, we would pay our share of taxes. We have no objection—I mean we have to by law pay that anyway.

We do have some property in Anchorage and we pay taxes. I think you would have to have in the rural area some kind of economic development before you started worrying about taxes—even inside the borough, except that this is the Nana Borough—I think that's the name of it, they would have to have a tax base.

I don't think starting boroughs in Native areas just to tax Native lands is a good move. You known, some people are advocating it, just to get the land away from the Natives.

Senator MURKOWSKI. Let me just follow up on another area just briefly that was mentioned in your presentation and that is, your supporting the provision that would allow the Native corporations to take care of those born after 1971.

You gentlemen independently represent your corporations. Is it your view that your corporate shareholders would be willing to dilute their shareholdings, to give up some of their shares, return them to the corporation for reissue to their children?

Mr. **Thompson**. Senator, to try to answer that. We have—Doyon, working in conjunction with the nonprofit organizations within our region, village corporations and village councils have had three major seminars on 1991. We just concluded one yesterday. We have gone to each of the communities with this legislation and with the concepts with every community within our region and discussed for them legislation before them, discussed the key concepts, and one of the basic ones is what to do about children born after 1971. We have talked the legislation in conceptual form, and I believe it's safe to say we had general concensus, that enrolling children after 1971 is the wishes of the majority of the shareholders.

I can't state emphatically that every shareholder concurs in that view, but I believe it's safe to say that that's the broad general concensus that our shareholders support that concept.

Senator **Murkowski**. And the method would be diluting existing shareholders?

Mr. **Ewan**. That is one method, yes.

Senator **Murkowski**. What is the other method that's available?

Mr. **Ewan**. Well, it would be principally through dilution of existing shareholders.

Senator **Murkowski**. I would direct my last question to the panel. It concerns the provision that provides the transfer of assets to other entities—and this is the one that's interpreted in many different ways, including theoretically a pathway to a sovereign status. Since the law was established under corporations as opposed to associations or reservations, that means obviously that every shareholder is represented by his stock interest as in any corporation, now in transferring assets to other entities, we could theoretically say a village corporation transferring the assets, be it the surface land into this other entity, which could theoretically be chartered under the Indian Reorganization Act, IRA. So you could have a village corporation moving in on an IRA. Now the concern here is the state of sovereignty of that new entity. And the question of whether it would be tax exempt in the area of an IRA, which is chartered under Federal law and an appropriate vehicle that's been around for a long, long time.

In this provision, it's the concern of some that the transfer of assets should not be tax exempt in that other entity. My question is, first of all, do you generally agree with that; and, secondly, do you feel that your people are willing to give up their shares of stock in a corporation which is represented by the equity interest in that share, give it up for an association for the common good and acknowledge that the corporation concept, at least for them, hasn't worked and they want to go back to the association or, for a better name, a reservation concept, which is what it is?

Mr. **Thompson**. Senator, let me try.

The transfer to other organizations is that, it's optional, No. 1; No. 2, it's other organizations other than just IRA's, it could be cooperatives and other entities, it doesn't have to be an IRA.

I was smiling when you were making your point, Senator, and excuse me, if you would, because I made a statement the other day that, you know, if you put one rock ahead of the other, pretty soon you're across the stream. And many people, in my view, who sense that sovereignty is a huge issue are doing just that. They're saying if this happened and if that happened and if that happened and if that happened we'll have, sovereignty.

I want to state that in my prepared testimony and at the conference that we had yesterday, the villages from our region, both councils and corporations, state that this legislation should be sovereignty neutral. That is our official position.

To try to answer your question as to whether it could, jumping from one rock to another, end up being nontaxable. I think the intent of the legislation is that undeveloped land, as it is today should be nontaxable.

When it comes into development, I think the general concensus is that we would be willing as we are today, to pay our fair share.

I want to make one brief other comment, if I may, Senator. You know, we are major employers in all of our regions. We are the key, I think, advocacy for rural hire in the State. There's many benefits that regional corporations bring to the communities that we reside in and to the State that are not measured just in taxation. Just using our corporation to some limited extent, we have the highest percentage of Alaskans and we employ the highest percentage of Doyon shareholders in our work force in Prudhoe Bay. No one matches that. And we are very proud of that. Now, that's a benefit that goes directly to our shareholders, it goes directly to Doyon, but also come directly to the State, in that we're creating more jobs for Alaskans.

So there are other benefits other, if I may, than the very narrow, small tax base that you may get off of Doyon than that. I hope I've answered your question, Senator.

Senator **MURKOWSKI**. And you feel that as far as the option of having the capability of transferring other assets is just that, it's an option that may not be pursued. But if it were pursued, I think it's fair to suggest that they would probably have to give up their stock because you're moving out of a corporation. If you move out of a corporation you move into something else. And I assume you don't know the attitude of your people in saying, okay, we're willing to give up our interest, which is representing a tangible value, whatever a percentage of ownership of the subsurface right is, for the benefit of everybody in this other entity?

Mr. **THOMPSON**. I think that the key—and we both started on it—is it's an option that village corporations, and to some extent regional corporations, could avail themselves if it's passed in the legislation.

It would be Doyon's strategy, in any event, if that option became available to have more workshops, meet with more village corporations and shareholders to discuss that option both pro and con.

There isn't, as you can appreciate, in a piece of legislation this complex and this broad, there isn't one panacea to solve every one particular unique situations.

I think what we're trying to do, Senator, is get as many options available to our shareholders and village corporations as possible. And we would intend that if this was to pass, we would look at it very carefully, both to its strengths, what we have now, the strengths we have now and the weaknesses we have now versus the perceived strengths or weaknesses in moving to another entity, whether it be a cooperative, nonprofit, an IRA or traditional or tribal government.

We would need to explore in some depth, in greater depth than we have to date just what are the benefits, or what are the pitfalls in moving to that other entity.

Senator MURKOWSKI. I think it's significant to explore areas of concern that have come to our attention with regard to the question of sovereignty and what it implies in Indian land and IRA's and hunting and fishing and private lands, because many people have a tendancy to put them in one ball and make a generalization of them.

We have explored, I think adequately, the aspect of transferring assets to other entities and what that could imply. Your position has been stated that if it generates revenue it should pay its fair share of taxes, which I think would imply that if it transferred to another entity and had revenue-producing capabilities it should pay its fair share of whatever that might be.

But as far as the concern of Alaskans over what is termed Indian land, the inability to go and hunt and fish on that land, could you enlighted the record a little bit there on the question of Indian land vis-a-vis Doyon land?

I recognize these aren't easy questions and the answers aren't all formulated yet, but they're in the minds of Alaskans. And I think that since the point of the hearing is to get input, and you people speak for your corporations, it's appropriate that we ask those questions.

Mr. THOMPSON. Senator, let me try by saying that I have been involved in various levels of policy, both at the Department level, at the Bureau of Indian Affairs level, at the local level and at the national level.

I know nothing that is more complex than Indian law. It's a body of law that has been with us since before the formation of the United States. The constitution of this great country has many provisions in it that emanated from Indian law. And we have yet, in 1986, contrary to many people's desires or beliefs, Congress and the Federal Government legislating on behalf of Indians. And that has gone on since time immemorial in our country. We are a distinct group of people.

A lot of people, many people who will testify today don't want to recognize that. The law and the body of law, the Congress, and the administration's actions have supported that for hundreds of years.

We now put ANCSA on top of all that, and, hence, there is a lot of confusion. Some people say that in 1971, ANCSA terminated Indian Country in Alaska. I don't beleive that's the case.

I would further say that with all those experiences that I have had, I don't consider myself an Indian law expert. That is, as I tried to point out, a very complex part of law.

But it's my belief that there are special provisions for Alaska Natives that Congress has enacted since 1971, the Indian Child Welfare Act, just to name one, that shows that Congress views in their mind Indians special and they have a unique relationship with the United States.

That is something that can't be wished away. That is something that can't just be talked away. That is something we can't scare people away about. That's a fact of life.

I hope I'm answering the question, because it is a complex question, Senator, and I'm trying to respond to it as best I can. I don't know that I'm helping you, but I think that that——

Senator MURKOWSKI. You're certainly elaborating on the problem.

Mr. THOMPSON. Okay.

Mr. EWAN. Could I add a little bit to Mr. Thompson's remarks?

Senator MURKOWSKI. Certainly.

Mr. EWAN. It is a complex issue. Presently the ANCSA lands out there are just private lands just like any other private lands. Just because they're determined Indian country, as they should be, which will probably be determined only in court, I don't think will change things very much.

I don't know what the fear is myself. Presently, private lands, if it stays status quo, as it is right know, the people will not be able to go out an hunt on them because it's private lands. You have got to keep off private lands. What difference does it make whether it's private lands. What difference does it make whether it's Indian country or whatever as far as the usage of that land, country or whatever as far as the usage of the land, other people's use. It's private land. It's our land and and we can use it the way we want to and keep other people out. Thank you.

Mr. THOMPSON. If I may, Senator, just one quick summation again from where I started. We view these amendments to ANCSA as amendments to make the Settlement Act better. We've stated publicly, we did yesterday again in resolution form at our convention, that these amendments to ANCSA are sovereignty neutral.

We don't feel that it's appropriate to discuss and raise the sovereignty issue amending ANCSA. That is an issue that, as I hope I pointed out, is very complex. It is not given to easy, quick solutions, and it should be a subject for another day.

It our intent and our intention to have this legislation sovereignty neutral. We don't have a hidden agenda to come back to Congress and say well, we snuck some language in on you, now that you've passed it look what you're created, I'm going to be the Chief of Doyon and secede from the Union. That's not the intent of the legislation, Senators.

It's a very complex issue, and one, again, that will take much more debate than we have time here today, and it is a complex issue. Our position again is that we're sovereignty neutral in these amendments.

Mr. **Roehl.** Mr. Chairman, Chugach feels that we're sovereignty neutral. This will be discussed further within our villages. It is not a dead issue, by all means, in our villages and our corporation.

Chugach is like what Morris Thompson says, we have no hidden agendas and it should be sovereignty neutral. Thank you.

Senator **Murkowski.** Thank you, Mr. Chairman. I am sorry to have taken so much time, but these gentlemen do represent the three corporations adjacent to this area, and I think it's important to have their statements in the record.

And I think, as Mr. Thompson so eloquently indicated, it is an extraordinarily complex problem. Unfortunately, they're going to be looking to Government—when I say "they," both the regional corporations, the State of Alaska and interested citizens, for resolve of these complexities, and I'm very glad that you're such an expert on public land law, because you can enlighten us as you now understand the extent of the concern and difficulties and complexities. So I'm very pleased that you're here to unwind these issues as the time permits. Thank you, Mr. Chairman.

Senator **Wallop.** I might just observe that it's one thing to have pretty good concept of public land law, it's quite another thing, as Mr. Thompson said, trying to take tribal law, and weave it into that fabric.

But might I say to the three of you that you have represented your corporations most eloquently here. And I think that they should know that that's a pretty fine job and I appreciate your coming today.

Now I'm going to call Panel 4. While they're coming up, I'm going to call the names of Panel 5 and try to move things along. I'm going to ask the fifth panel, if they will to take seats along the back there so that we can help the transfer time a little bit.

On Panel 4, we have William "Spud" Williams, Tanana Chiefs Conference; Will Mayo, Tanana Chiefs Conference; Mike Walleri, Tanana Chiefs Conference; Mitch Deimientieff, Chief, Village of Nenana; Clarence Alexander, the Alaska Native Coalition.

Now the fifth panel would be Mr. Roger Burggraf, President of Fairbanks Chapter of Alaska Miners Association; Bruce Campbell, Tanana Valley Rifle and Pistol Club; Wyn Reeves, Alaska Bow Hunters Association; Byron Haley, Chitna Dipnetters, and Joe Nava, National Rifle Association.

If you gentlemen on the fifth panel would just take seats behind while these folks are beginning their testimony, it might save us a little transfer time.

Mr. Williams.

STATEMENT OF WILLIAM "SPUD" WILLIAMS, PRESIDENT, TANANA CHIEFS CONFERENCE, INC.

Mr. **Williams.** I have some testimony that I handed in, and this is the representative testimony of the Tanana Chiefs Conference, passed by our Executive Board just recently.

The Tanana Chiefs Conference is a consortium of 43 tribal entities within the interior of Alaska, covering an area larger than the State of Texas.

The Claims Settlement Act has had a real impact on the tribes and villages in our region, and we are here again to defend our lands. This is our primary concern.

We do not want to risk losing our lands, and, thereby, our cultural and our heritage. We hope that Congress does not forget that the Claims Settlement Act is an experiment.

ANCSA departed significantly from past historical settlements, and the Native people of Alaska, to varying degrees, embraced the innovative approaches embodied in the Act.

However, we do not agree to be the victims of an experiment, rather only participants. And we never intended to risk our land or our culture.

If that is the danger—and we believe it is—then we want the problems corrected before it is too late.

Clearly, we have learned that some of the concepts contained in the Act are worth developing, but we are not blind to the fact that many of its provisions may shortly result in the loss of our Native lands.

We believe that the following proposed amendments to the Act are no more than reasonable to correct the unforeseen deficiencies in the original concept of ANCSA and to maintain the spirit of the fair and just settlement.

Secondly, the proposed amendments suggest that Congress find that the corporate structure is ill-adapted to the Alaska Natives.

We are tribal people. We share many of the same social and cultural values of our Indian relatives in the Lower 48. We are organized in tribes which govern our lives.

Some of us live in cities and even out of State, but our ties back to our tribes are strong, and we value these tribal ties.

To some extent, the corporate structure reflects these communal social characteristics, it mirrors our social, collective, and group values. However, the corporate vehicle is an economic structure, designed to enhance risk-taking. Tribal society, on the other hand, is designed to preserve traditions and to protect what we value.

We value our land. Many of us want to separate our lands and our our monies so that we can risk the money, pursuing economic development without risking our precious lands. We want to develop our communities to enjoy the fruits of a modern world, but we want to do so in the context of our social structure, tribal communities and the values tied to our lands.

We touch on many issues of the Act itself to offer specific amendments. Going to some of the issues, the opt-out provisions, opt-in—opt-out argument. We favor the opt-out only. And I think if you look at the opt-out only—and opting out meaning alienation of stock, that will clarify the bill significantly. The bill is so complicated now that even attorneys can't read the thing.

We want to limit the opt-out election procedure to once every generation, because it's a very divisive issue that's going to tear people apart, tear corporations apart, be very expensive. Once the vote is taken, it should be limited to once every twenty years.

After the vote is taken we also want a 1-year cool-down period. If the vote is taken to lift the restrictions from the stock, there should be a 1-year period before implementation so people can reconsider.

Again, it's a very divisive, very emotional issue that should be done in a very considerate manner so that people know what they're doing, what they have done and be able to live with the consequences thereafter.

We want high votes requirements to lift those restrictions. At least 51 percent of the shareholders should be voting. We're talking about a community that does things by consensus. We believe that that should be continued. We want at least a 51-percent vote in the affirmative to lift those restrictions.

The debt things that are starting now to be attached to Native assets, stock in particular. There is a clear history with the Federal Government with regards to Indian properties, that the fruits of those properties' prior debts cannot follow that. So once those restrictions are lifted, prior debts should not encumber the fruits of that stock.

We see that happening today at both the Federal level, the State level, as well as the private level. There are suits going on right now in courts and judgments being issued against individuals on AFDC payments.

In 1991, if the restrictions are lifted, the state will end up owning a large bloc of Native stock.

[The prepared statement of Mr. Williams follows:]

TESTIMONY OF

TANANA CHIEFS CONFERENCE, INC.

WILLIAM C. "SPUD" WILLIAMS
PRESIDENT

MAY 24, 1986

5/86-161.13

General

Before offering our specific comments on the legislation we would like to offer the following general comments.

We are here again today to defend our lands. This is our primary concern. We do not want to risk losing our land, and thereby our culture and our heritage. We hope that Congress does not forget that ANCSA is an experiment. ANCSA departed significantly from past historical settlements, and the Native people of Alaska, to varying degrees, embraced the innovative approaches embodied in ANCSA. However, we did not agree to be the victims of the experiment, rather only participants, and we never intended to risk our land or our culture. If that is the danger - and we believe it is - then we want the problems corrected before it is too late. Clearly, we have learned that some of the concepts contained in ANCSA are worth developing, but we are not blind to the fact that many of its provisions may shortly result in the loss of our Native lands. We believe that the following proposed amendments to ANCSA are no more than reasonable to correct the unforeseen deficiencies in the original concept of ANCSA and to maintain the spirit of a fair and just settlement.

Secondly, the proposed amendments suggest that Congress find that the corporate structure is ill adapted to Alaska Natives. We are a tribal people. We share many of the same social and cultural values as our Indian relatives in the lower '48. We are organized into tribes, which govern our lives. Some of us live in cities and even out of state, but our ties back to our tribes are strong, and we value these tribal ties. To some extent, the corporate structure reflects these communal social characteristics; it mirrors our social, collective and group values, However, the corporate vehicle is an economic structure designed to enhance risk taking. Tribal society on the other hand is designed to preserve traditions and protect what we value. We value our land, and many of us want to separate our land and our money so that we can risk the money pursuing economic development without risking our precious land. We want to develop our communities to enjoy the fruits of a modern world, but we want to do so in the context of our social structures, tribal communities and the values tied to our land.

The proposed amendments offer a choice for Alaskan Native organizations to select between either or both tribal protectors and corporate stewards. Our proposed amendments offer only moderate protections in the form of basic land protection for undeveloped land and restrictions on stock alienation. From that beginning point, the options contained in the legislation allow the Native people to move along whatever continuum if they choose. This is true self-determination. Obviously some regions or villages will utilize Sec. 5 of the legislation to transfer lands to their IRA's or Traditional Village Council for the protections those entities offer. Others may use other vehicles such as private trusts, nonprofit corporations, or cooperatives.

Others may prefer corporate structures and ultimate assimilation into non-Native society. By offering a wide spectrum of options, the legislation will enable our Native people to develop successful strategies in tune with their particular situations to preserve and protect their culture and their lands.

There are a number of other issues embodied in this bill. This legislation would allow corporations to include Native children born after 1971 and other Natives who missed enrollment under the Act within the settlement. This is only proper, since those born after 1971 are no less Native than those living in 1971. The legislation would allow differential benefits from the corporations for Native elders and other classes of Natives who deserve more from the settlement than the rest of us. We as Alaskan Native people, embrace this humanitarian considerations. These are important aspects of this bill which will help us to deal with these serious social issues in Alaska Native society today.

While we recognize that ANCSA did not solve all our problems, we also recognize that this legislation will not either. We must still deal with conflicts over our continuing special relationship with the federal government and the jurisdictional and governmental powers of our tribes. Neither ANCSA nor this legislation affects those rights. TCC is a strong advocate for the Native right to self-determination. We continue to support litigation to protect these rights, and we would support any legislation which strengthens existing tribal powers.

1. Favor Opt-Out Ballot Measure Only

TCC has very strong concerns that the language contained in the current draft legislation is very confusing in respect to the ballot procedures for lifting restrictions on the alienation of stock. Currently, the bill provides that in Village Corporation elections, the ballot option is limited to asking shareholders as to whether restrictions are to be lifted (opt-out). For regional corporations, however, the bill offers two options for ballot presentation: (1) whether restrictions shall be lifted (opt-out) or (2) whether restrictions shall be continued (opt-in). TCC strongly believes that the ballot question should be uniform and consistent and require the ballot to present the question as to whether the restrictions are to be lifted (opt-out) only. The current language presents the distinct possibility of great confusion of Native shareholders who may be presented with quite different ballots on the same question in their regional and village corporate elections. Two possible ballots will only lead to deliberate or unintentional misrepresentations to Native's trying to decide these issues. These amendments to eliminate this confusion is contained in our Amendment No. 1 (attached).

2. Limit Opt-Out Elections to Every Twenty Years

INTENTIONAL
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TCC favors changes to the bill which will only allow elections to lift restrictions every twenty years. The current language could led to recurring corporate proxy fights over this issue, and this in turn will only result in corporate instability and social disharmony within Native society. By limiting elections to twenty years, the process will allow future generations to decide this issue without undue conflict. The concerns are contained in Amendment No. 2 (attached).

3. One Year Minimum Delay in Effective Date of Lifting Restrictions

If a corporation elects to lift restrictions, we strongly urge a minimum delay between the election and the effective date of one year in order to allow reconsideration. If restrictions are lifted, it will affect not only the current generation of shareholders, but also their descendents, and once done, it cannot be undone. It is therefore important to guard against mistakes. A one year delay with a possibility of reconsideration would allow a "cooling off" period in which the shareholders might wish to change their votes. In this way, Congress can be assured that the removal of restrictions was not the result of deceit or misinformation.

4. Different Minimum Votes for Different Actions

The current bill contains very confusing language respecting the required numerical vote to lift restrictions. Arguably, the current language could allow as few as 26% of the shareholders to lift restrictions. We strongly urge that at least a majority of all the shareholders agree before any restrictions are lifted. However, TCC feels that the majority of a quorum would be sufficient to transfer land to a qualified transferee entity. The two actions are quite distinct. While transfer is essentially a land management action, which only indirectly affects the shareholder, the lifting of restrictions is a matter which intimately affects the immediate interest of each shareholder. Given this distinction, the different minimum requirements for shareholder approval levels should be different.

5. Clarification of Restrictions on Prior Debt

The current bill is unclear regarding the effect of lifting restrictions on stock to debts incurred during the period in which the stock was restricted. Historically, federal policy has provided that when restrictions on Indian property are lifted, the property could not be seized to satisfy debts which arose during the period of restriction. A good example is Native allotments and townsite lands. We strongly feel that prior debt should not attach to stock upon the lifting of restrictions. Liability arose at a time and under circumstances in which creditors could not look to the stock for satisfaction, and they should not realize a windfall.

6. Clarification of Transfer Provisions

Section 5 of the proposed bill provides the option for Native Corporations to transfer land to a qualified transferee entity, such as the tribe, a nonprofit corporation, trusts or cooperatives. The bill authorizes the transfer of any or all of the corporation's interest in land, but needs to clarify that the interests which may be transferred indeed the right to receive conveyance of lands under ANCSA and should also include the right to receive revenues under Sec. 7(i) of ANCSA. It is necessary to clarify these issues to avoid any confusion and allow the greatest range of options to the Native Corporations. Additionally the current legislation allows transfer of assets only directly to a qualified transferee entity. Many corporations are considering transfer of assets to trusts. Technically, a trust would not constitute a qualified transferee, since legal title would be held by another entity with equitable title vested in the qualified transferee. We therefore request that language be inserted in Sec. 5 of the bill to clarify that lands may be transferred to a trust holder for a qualified transferee.

7. Section 21(e) Apply to Transferred Land

Currently, the bill only extends Section 21(d) to transferred land. However, Section 21(e) of ANCSA contains the federal distribution formulae for JOM and other Indian education funds which takes into account Native lands. Additionally, Sec. 21(e) provides for fire protection for undeveloped Native lands. The omission of Sec 21(e) was unintentional and its inclusion will avoid any major unintended consequences of a transfer of land to a qualified transferee.

8. Deletion of the Work "Enlarging" from Sec. 7

In drafting this bill, AFN included Sec. 7 to separate out other issues. The original draft did not contain the word "enlarging". Current federal policy favors Native self-determination, and the protection of such rights from unintentional erosion. We believe that the bill, as originally submitted, was adequate; however, the inclusion of the term "enlarging" in the bill is contrary to current federal policy which supports increasing Native self-determination. President Reagan's Indian Policy Statement pledges his administration to advance Indian self-determination in Alaska. The Alaska Congressional delegation pledged its support for a bill developed upon Native consensus. There is a clear consensus that Sec. 7 as originally drafted was correct. Now, the bill introduced by the Alaska delegation breaches that pledge. We urge the Senate to appreciate the Native consensus on this issue and strike the word from Section 7.

9. Condemnation

Similarly, the original AFN bill did not contain the provision relating to condemnation now found in Sec. 10 of the bill. These provisions were inserted after AFN submitted it's draft language and does not represent the Native consensus position. While we have no problem with condemnation actions for public projects which enhance the social and economic development of our communities, condemnation may be misused. For example, condemnation is frequently used to support infrastructure development supportive of private/public development projects. Some of these projects may destroy subsistence opportunities for our people or deprive our communities of an opportunity to develop our resources. On the other side, agencies such as the U.S. Park Service and U.S. Fish & Wildlife have expressed an interest to condemn Native lands within parks and refuges, despite a prime purpose of those parks and refuges to accommodate Native subsistence.

We support a balanced federal policy which seeks to protect subsistence and promote Native economic development in a compatible manner. An unchecked power of condemnation without federal oversight could certainly frustrate this balanced approach. Therefore, we suggest one of three options: 1) strike all reference to condemnation and allow existing law to control the matter; 2) substitute the term "federal" for the word "state" in the current language to reference federal condemnation law, or; 3) redraft the entire proviso to specifically enunciate the conditions under which land can be condemned consistent with the general guidelines that the power may not be used to deprive Native villages of economic development or subsistence.

10. Groups

The legislation does not address a major problem which we are now encountering with Native groups. Groups are those communities of less than twenty-five (25) Natives. The groups in this region are just now being recognized by the Department of Interior and are beginning to receive benefits under the Act. Unfortunately, they are not receiving their full proportionate land entitlements as provided by ANCSA because Department regulations which anticipated more groups being recognized than actually occurred. We request that the Congress restore the entitlements originally contained in ANCSA. This would not cost the government one more additional acre of land, since the group entitlements came out of a regional selection pool.

Additionally, groups are now being forced to select lands away from their group sites because they do not have the same selection rights as villages relative to competing claims. This makes little sense, and the groups should be entitled to select land according to the same rules which govern village selections within the Act's original acreage limitations.

11. Townsite Close Out

In 1926, the Congress passed the Alaska Native Townsite Act, to allow villages to establish townsites and provide for individual Natives to acquire restricted deeds for townsite lots. In

1976, the Federal Land Policy and Management Act (FLPMA), Congress repealed the Townsite Acts with a savings clause. In the FLPMA repeal, entry into townsite lands was cut off in 1976. As a result, these lands, located in the middle of many villages, are completely tied up and cannot be used. This has been a major problem for villages which wish to use the lands for community centers, clinics and individual homes. Since these lands were originally set aside for Natives, we would like to see the townsite program closed out by transferring the remaining undeeded lands to the local village councils. Language to do this is contained in the attached amendment.

12. Welfare Eligibility

TCC is greatly concerned about the effect of lifting restrictions on stock relative to individual Natives' eligibility for public assistance. A recent report completed by the Institute of Social and Economic Research (attached) for AFN dramatically illustrates the impact of 1991 on natives who may be dependent upon public assistance programs. Basically, the report notes that the sale of stock by Natives would only be a temporary windfall, but would not meet the basic needs of Native families, and predicts a short-term return to poverty status for Natives selling their stock. Sec. 2(b) of ANCSA declared that settlement should occur in conformity with the real economic and social needs of Natives. Moreover, Sec. 29(a) and (b) espouse the concept that ANCSA was a settlement of aboriginal land claims and should not be considered generally in calculating the eligibility of Natives for public assistance programs. At this time, it is unclear what effect the lifting of restrictions or the sale of stock will have on Native eligibility for public assistance programs, however, it is certain that forcing Natives to sell their stock because of economic pressures prior to receiving assistance in the short-term will result in absolutely no economic gain at all for Natives and will only perpetuate the poverty status of many Natives in the long term. To carry forward the policies currently within ANCSA, TCC would like to see clarification that Sec. 29(a) and (b) apply to corporate stock after restrictions are lifted and/or sold.

Conclusion

In conclusion, we want to express our support for this legislation with these changes incorporated. The legislation will clearly help facilitate the fair and just settlement of Alaska native claims, and, if fully implemented, protect the lands retained by Alaska Natives from further diminution. Finally, we wish to note that the bill is very complicated, and drafted in a way which makes it difficult to understand. Some of this complexity is needed because the bill deals with a complex issue, however, it should be simplified so that the average person can understand it, and to continue the concept of a fair and just settlement.

AMENDMENT NO. 1

p. 10, l. 11	strike "either"
l. 12	all
l. 13-15	strike last sentence beginning with "Continuation"
p.11, l. 10-19	strike all of sentence beginning with "If"
p.11, l. 1-6	strike sentence beginning with "Adoption", replace with "If a resolution to terminate such restrictions is rejected, the Regional Corporations may not conduct a vote under this paragraph any less than twenty (20) years from the prior election."
p.16, l. 21	replace "the extension of" with "to reject the termination of"
l. 23	strike "against the extension"
l. 24	strike "as the case may be"
p.30-31, l. 21-25	delete all
p.31, l. 1-2	delete all

AMENDMENT NO. 2

p.10, l. 22	insert after period (.) "not less than twenty (20) years,"
p.30, l. 15	replace word "annual" with term "twenty (20) years"

AMENDMENT NO. 3

p.12, l. 2

insert following: "If a resolution to terminate restrictions on the alienation of stock which states a date or specific event upon which the restrictions will terminate greater than one (1) year from the date of the vote, the resolution may be rescinded by a vote conducted in a manner provided in this paragraph."

AMENDMENT NO. 4

p.16, 1. 13-15	strike remaining sentence following the word "voted"

AMENDMENT NO. 5

p.19, l. 6	insert following after word "subsection": "such stock shall not be subject to lien, writ of attachment, execution or judgment arising out of debts incurred during the period which the stock was subject to restrictions, and"

AMENDMENT NO. 6

p.20, l. 1

insert after word "therein" following: "including the right to receive conveyance of lands under Act, and the right to receive revenues due under Sec. 7(i)."

AMENDMENT NO. 7

p.20, l. 2	insert following after word, "entity": "or in trust for the benefit of a qualified transferee entity.

AMENDMENT NO. 8

p.21, 1. 10	insert "and (e)" after word "21(d)"

AMENDMENT NO. 9

p.29 l. 8-9 strike word "enlarging"

AMENDMENT NO. 10

p. 33, l. 16-20	Option 1 - strike all after word "7(i)"
	Option 2 -
l. 20	substitute "state" with "federal"
	Option 3 - no specific language

AMENDMENT NO. 11

Sec. _____ Section 29(b) of the Alaska Native Claims Settlement Act is hereby amended to read as follows:

(b) Notwithstanding any provision of State or federal law to the contrary, in determining the eligibility of any household or individual to participate in and federally assisted program of assistance, any compensation, remuneration, stock whether restricted or not) revenue or other bbenefit received by any Native individual or Native member of such household, including proceeds from dividends paid by a Native corporation or qualified transferee entity or received pursuant to the sale of stock, shall be disregarded.

TOWNSITE AMENDMENT

Sec. _______. Section 701 of the Federal Land Policy and Management Act [43 USCA 1701] is hereby amended by addition of the following additional subsection:

(k) The townsite trustee administering townsites authorized under the Alaska Native Townsite Act [Act of May 25, 1926] located within Alaska Native Villages as defined by this Act shall close out the townsite trusts respecting such villages by conveying all undeeded lands within such patented townsites to the Alaska Native government for the respective village. Deeds issued pursuant to this paragraph shall be subject to the restrictions provided for in the Act of May 25, 1926. Upon conveyance of all such lands, by the trustee, the Secretary shall terminate the townsite trust program maintained by the Bureau of Land Management with respect to such villages.

GROUP AMENDMENT

Sec. _______. Section 14(h)(2) of the Alaska Native Land Claims Act [P.L. 92-205) is hereby amended to strike the semicolon at the end and inserting in lieu thereof the following language:

> Provided, that the group entitlement under this paragraph shall be equal to the ratio to which the group's enrollment bears to 25 multiplied by 23,040 acres, and further provided that Subsections 11(a)(1) and (2) and subsections 12(a) of this Act shall apply to conveyances under this paragraph;

5/86-154.4

Senator **Wallop**. Thank you, Mr. Williams. I know how short 3 minutes is, but I've still got other people's testimonies yet to come at the end of the day.

Mr. Mayo.

STATEMENT OF WILL MAYO, ANCSA SHAREHOLDER

Mr. **Mayo**. Thank you for the opportunity to testify.

My name is Will Mayo. I am testifying as an ANCSA shareholder, and I'm from the Village of Tanana. I'm currently employed by the Tanana Chiefs Conference and have in the past held positions with the corporations organized pursuant to ANCSA.

I speak largely in favor of the bill, with changes which I will suggest. My main points are stock provisions, land protection, and the options, the importance of the options approach.

Firstly I'd like to state that the stock provisions are important because they would be—in that they are tied so closely to the question of land retention.

We desperately need our stock automatically restricted until such time as shareholders vote to remove restrictions. Such votes should be a 51-percent affirmative vote aby all outstanding shares entitled to vote on the corporation role.

Currently the bill says it can be a 51-percent quorum with 50 percent after that. It's a little confusing.

I oppose the inheritence of stock by non-Native peoples, because this is a Native settlement to our people who have a right to hold their land in exclusive Native control by virtue of our ancient and exclusive ownership of that settlement land.

I ask that this bill be amended to allow only Natives to inherit the stock. Otherwise, we will eventually lose our land.

We used to be able to make our children members of the corporations by issuing to them at no cost if we decide so. We need to be able to do the same for our elders so that they may receive special benefits or consideration, because we honor them.

On the questions of land on the issue on land, we need to have our land protected against loss. We ask that our undeveloped land be untaxable by government so that it may never be taken to satisfy tax obligations.

The overwhelming majority of corporations would never bear such a tax burden. We ask for other land bank type protections.

Regarding adverse possession. Now, judgments claims on bankruptcy, judgments to recover sums and penalties against our undeveloped lands. Such protections would ensure that our developed land could remain in our lands to the benefit of our longstanding cultural ties upon which land and our heritage depend.

We ask to be permitted to transfer our land to our tribel governmental entities, with the protections stated above, so that a more appropriate Native organization may direct our occupancy and use according to ancient and culturally sensitive methods.

There will be those who argue that tribal rights to hold and govern our lands were extinguished by ANCSA in 1971. There is no basis in the law for this claim. ANCSA never addressed those rights and does not do so with this bill, other than to state its neutrality on the subject. This has always been true.

Even the State of Alaska asked for waivers of tribal immunity when making agreements with tribes in this State. Tribes are alive and are operating expressions of Alaska Natives' self-determination in spite of claims otherwise.

I ask that imminent domain powers by the State be inapplicable to Native lands without Federal oversight. ANCSA has already provided easements for public access to other lands. Federal oversight for eminant domain could offer protection for Native land use on ANCSA land where traditional and culturally sensitive uses are endangered.

Senator **WALLOP**. Mr. Mayo, could I ask you to give a summary statement, please.

Mr. **MAYO**. Okay. In summary, we need protections for our land is my major point. We also would like you to consider the stock provisions that would enable us to protect our land.

What I didn't cover was the options approach; that these would be options by the different Native groups and tribes and corporations around the State.

[The prepared statement of Mr. Mayo follows:]

TESTIMONY OF

WILL MAYO

BEFORE THE SENATE SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

MAY 24, 1986

FAIRBANKS, ALASKA

S. 2065

THANK YOU FOR THE OPPORTUNITY TO TESTIFY.

MY NAME IS WILL MAYO. I AM TESTIFYING AS AN ANCSA SHAREHOLDER FROM THE VILLAGE OF TANANA.

I SPEAK IN FAVOR OF THE BILL WITH THE CHANGES WHICH I WILL SUGGEST. MY MAIN POINTS ARE:

1. STOCK PROVISIONS
2. LAND PROTECTION
3. "OPTIONS" APPROACH

STOCK PROVISIONS:

WE DESPERATELY NEED OUR STOCK AUTOMATICALLY RESTRICTED UNTIL SUCH TIME AS SHAREHOLDERS VOTE TO REMOVE RESTRICTIONS. SUCH VOTES SHOULD BE A 51% AFFIRMATIVE VOTE OF ALL OUTSTANDING SHARES ENTITLED TO VOTE ON THE CORPORATION ROLL.

I OPPOSE THE INHERITANCE OF STOCK BY NON-NATIVE PEOPLES BECAUSE THIS IS A NATIVE SETTLEMENT TO OUR PEOPLE WHO HAVE A RIGHT TO HOLD THEIR LAND IN EXCLUSIVE NATIVE CONTROL BY VIRTUE OF OUR ANCIENT AND II EXCLUSIVE OWNERSHIP TO THAT SETTLEMENT LAND. I ASK THAT THIS BILL BE AMENDED TO ALLOW ONLY NATIVES TO INHERIT THE STOCK OTHERWISE WE WILL EVENTUALLY LOSE OUR LAND.

WE NEED TO BE ABLE TO MAKE OUR CHILDREN MEMBERS OF THE CORPORATION BY ISSUING STOCK TO THEM AT NO COST IF WE DECIDE SO. WE NEED TO BE ABLE TO DO THE SAME FOR OUR ELDERS SO THEY MAY RECEIVE SPECIAL CONSIDERATION BECAUSE WE HONOR THEM.

LAND:

WE NEED TO HAVE OUR LAND PROTECTED AGAINST LOSS. WE ASK THAT OUR UNDEVELOPED LAND BE UNTAXABLE BY GOVERNMENT SO THAT IT MAY NEVER BE TAKEN TO SATISFY TAX OBLIGATION. THE OVERWHELMING MAJORITY OF

CORPORATIONS COULD NEVER BARE SUCH A TAX BURDEN. WE ASK FOR OTHER "LAND BANK" TYPE PROTECTIONS:

1. NO ADVERSE POSSESSION
2. JUDGEMENTS FOR CLAIMS BASED ON LAWS OF BANKRUPTCY, INSOLVENCY, MORATORIUM.
3. JUDGEMENTS TO RECOVER SUMS OWED OR PENALTIES AS A RESULT OF CORPORATE OR NATIVE GRANT ACTIONS AND ACTIONS BY OFFICERS, DIRECTORS OR STOCKHOLDERS.

SUCH PROTECTIONS WOULD INSURE THAT OUR UNDEVELOPED LAND COULD REMAIN IN OUR HANDS TO THE BENEFIT OF OUR LONG STANDING CULTURAL TIES UPON WHICH LAND AND OUR HERITAGE DEPEND.

WE ASK TO BE PERMITTED TO TRANSFER OUR LAND TO OUR TRIBAL GOVERNMENTAL ENTITIES WITH THE PROTECTIONS STATED ABOVE SO THAT A MORE APPROPRIATE NATIVE ORGANIZATION MAY DIRECT OUR OCCUPANCY AND USE ACCORDING TO ANCIENT AND CULTURALLY SENSITIVE METHODS. THERE WILL BE THOSE WHO ARGUE THAT TRIBAL RIGHTS TO HOLD AND GOVERN OUR LAND WERE EXTINGUISHED BY ANCSA IN 1971. THERE IS NO BASIS IN LAW FOR THIS CLAIM. ANCSA NEVER ADDRESSED THOSE RIGHTS AND DOES NOT DO SO WITH THIS BILL OTHER THAN TO STATE ITS NEUTRALITY ON THE SUBJECT AS HAS ALWAYS BEEN TRUE. EVEN THE STATE OF ALASKA ASKS FOR "WAIVERS OF TRIBAL IMMUNITY" WHEN MAKING AGREEMENTS WITH TRIBES IN THE STATE. TRIBES ARE ALIVE AND OPERATING EXPRESSIONS OF ALASKA NATIVE SELF-DETERMINATION IN SPITE OF CLAIMS OTHERWISE.

I ASK THAT IMMINENT DOMAIN POWERS BY THE STATE BE INAPPLICABLE TO NATIVE LANDS WITHOUT FEDERAL OVERSIGHT. THE ANCSA HAS ALREADY PROVIDED FOR EASEMENTS FOR PUBLIC ACCESS TO OTHER LAND. FEDERAL OVERSIGHT FOR IMMINENT DOMAIN COULD OFFER PROTECTION FOR NATIVE LAND USE ON ANCSA LAND WHERE TRADITIONAL AND CULTURALLY SENSITIVE USES ARE ENDANGERED. AN AMENDMENT IS DESIRABLE HERE.

I ASK THAT SUBSURFACE TITLE BE TRANSFERABLE FROM REGIONAL CORPORATIONS TO VILLAGE CORPORATIONS IF DESIRED BY THE SHAREHOLDERS OF THE REGIONAL CORPORATION ACCORDING TO THIS BILL.

"OPTIONS" APPROACH:

MANY OF THE PROVISIONS OF THIS BILL ARE PRESENTED AS OPTIONS FOR THE SHAREHOLDERS. THEY RECOGNIZE THE DIVERSITY IN NATIVE APPROACHES TO THE ACT. THEY PROVIDE METHODS OF ENABLING NATIVES TO MAKE CHANGES THAT THEY DEEM APPROPRIATE FOR CONTROLLING THEIR SETTLEMENT BENEFITS. I SUPPORT THIS APPROACH TO THE AMENDMENTS.

IN CLOSING I WANT TO REITERATE THAT ALASKA NATIVES NEED THESE AMENDMENTS IN ORDER TO KEEP THAT WHICH IS UNIQUELY THEIRS. THESE AMENDMENTS WILL GREATLY AID IN THAT DESIRE. PLEASE GIVE THIS BILL EVERY CONSIDERATION TO THAT END.

Senator **Wallop**. Thank you, Mr. Mayo.
Mr. Walleri.

STATEMENT OF MIKE WALLERI, COUNSEL, TANANA CHIEFS CONFERENCE

Mr. **Walleri**. Thank you. My name is Mike Walleri. I'm an attorney employed by Tanana Chiefs Conference.

I would like to point the committee's attention to one of the items in the prepared testimony of Tanana Chiefs Conference, specifically the problem that groups have encountered under the Claims Act.

Within the Tanana Chiefs Conference we have two recognized groups, the groups of Menchumena and the group in Canyon Village. These villages have yet to receive any conveyance of the lands, and, yet, at 15 years after the law, one of the groups is still involved in appeals relating to its recognition.

While many of the Native people around the State are concerned about whether or not 1991 presents a loss of Native lands and control over those Native lands, the communities, the Native communities of Menchumena and Canyon Village are still struggling to obtain and implement the Act in their communities.

We have proposed amendments which would assist those two communities. And the primary thrust is to allow the rules that villages use in the selecting of their lands to apply to groups. And the technical differences contained in the Act, I think, were oversights and have presented severe impediments to those groups to implement the Act.

Secondly, I would like to address a general concern that we hear criticizing the amendments basically on the grounds that they're contrary to the spirit of ANCSA.

It seems almost like a citation to the oracle from delphi, and assumes that there's something out there by the name of ANCSA, a spirit out there by the name of ANCSA and somebody can go and consult with it.

I believe that the proposed amendments are, in fact, consistent with ANCSA, and, merely, their attempts to try and Nativize the Act. That is, to inject into it Native values, such as the protection of land, provisions of benefits to elders, the inclusion of Natives born after 1971, and a movement away from corporate structures which have been sever impediments to Native social and cultural values.

I think that, like the original, the amendments provide unique and bold innovative approaches to provide for Native self-determination. And that is what this Act is about, Native self-determination.

The option approach does that, and we would urge you to keep those original goals of the Act, the provision of benefits in the interest and the economic and political advancement of the Native people in mind in considering these amendments.

Senator **Wallop**. Thank you, Mr. Walleri.
Mr. Deimientieff.

STATEMENT OF MITCH DEIMIENTIEFF, CHIEF, VILLAGE OF NENANA

Mr. **Deimientieff**. Thank you. My name is Mitch Deimientieff. I'm the Chief of the Native Village of Nenana. I am also the Vice President of the Board of Directors of the Tanana Chiefs Conference, and I have served several terms first as the city councilman under the first-class city when Nenana was organized as a city, first-class city, and later as a municipal assemblyman when we went to homerule in Nenana. And largely that was, most of the time that I was on the council and the assembly, I was the only Native member on the council.

First I would like to say that as far as my position, I support—of course, being the Vice President of Tanana Chiefs, I have had opportunity to have input into the Tanana Chiefs' position, and I support that.

I bring up my city experience for a reason. As I pointed out, it was largely controlled by non-Natives before 1971. And after 1971, our relationship with the city, as far as as the tribes, the Native Village of Nenana, has not changed at all. We have both recognized that we do have areas of common concern, and how we have taken care of that in Nenana is by holding joint meetings; in other words, the city recognizing that the village has some authority and vice-versa, we hold joint meetings with both bodies in session and arrive at decisions jointly.

And that I think is real important to point out, because that is what's going on in the real world, in the real Alaska. I see nothing in this package that is going to change that relationship. We are going to continue to work together in the real Alaska.

And I would just say that I think it's real important to know that because this is the task, as you're well aware, that you have, to find a workable solution in these amendments. Basically the central issue being keeping Native lands in Native hands, and that's where our primary concern is.

And with that, I thank you very much.

Senator **Wallop**. Thank you, Mr. Deimientieff.

Mr. Alexander.

STATEMENT OF CLARENCE ALEXANDER, ALASKA NATIVE COALITION

Mr. **Alexander**. Yes, thank you. I have Bob Anderson with me, General Counsel for the Coalition.

My name is Clarence Alexander. I'm an Athabaskan Indian from Fort Yukon.

I am here today testifying on behalf of the Alaska Native Coalition, which represents the views of IRA and traditional councils throughout the State who favor Native self-government.

You will hear from the Coalition Chairman in Anchorage.

The Coalition is opposed to Senate Bill 2065 as it is presently drafted. Our critique of the bill and the proposed language to correct its faults are attached to my oral testimony in the form of a letter from the Coalition to Janie Leask of the Alaska Federation of Natives.

That letter refers to H.R. 4162, which in all material respects, except one, is identical to Senate Bill 2065. The only difference is that the House bill declares this to be Indian legislation, and the Senate bill does not.

This bill is Indian legislation, the primary purpose of which is to protect the Native land, and it should be clearly set forth as such.

While our view is that the bill fails to go far enough in a number of respects, I will only set forth a few of its major defects.

First, the qualified transferee entity provision was designed to provide for the transfer of village and regional corporation assets directly to tribal governments, whether they be Indian Reorganization Act councils or traditional councils.

It is not clear that this can be directly done in the case of regional corporation lands.

Also, the bill does not now expressly state that the tribal governments are the intended recipients. It should expressly so provide, and we offer language to that effect.

Second, the saving clause must be included as part of the bill. ANCSA was passed in 1971 to settle the aboriginal land claims. It was simply not dealing in any way with issues of tribal self-government.

If there is any principle of Indian that is unquestionable, it is that the tribal powers of self-government continue unless and until expressly extinguished by Congress.

ANCSA did not expressly alter in any way the legal nature or status of any of the Alaska Native tribes. Nor did it change the pre-existing relationship between the United States and the Alaska Natives as members of the tribes. Particularly, the Settlement Act neither terminated the tribes, nor the status of the Natives as tribal members.

The savings clause as presently drafted unnecessarily draws distinctions between Native councils and federally-recognized tribes.

The bill must make clear that the relationship between the Alaska Native villages and the Federal Government is a tribally-based relationship and not a Federal relationship with some sort of a second-class social clubs as the bill could be read to suggest.

Senator WALLOP. Mr. Alexander, could I ask you to give us a summary statement, please.

Mr. ALEXANDER. To summarize what I have just said?

Senator WALLOP. Well, no, to summarize what remains of your statement so that we can keep to the three-minute time rule.

Mr. ALEXANDER. Okay. Third, the land bank provisions should be included—should include protections for many village corporations which have already been involuntarily dissolved for failure to comply with the technicalities of State corporate law. We offer language to permit transfer of corporate lands to the tribal councils, notwithstanding such involuntary dissolutions.

Finally, I urge you to go further than this bill presently does and enact all of the proposed legislation of the Alaska Native Coalition, which is attached to this testimony.

It does not single out Alaska Natives for any special treatment or benefits. To the contrary, its primary thrust is to halt discrimination against Native governments and confirm that the Alaska

Native tribes have the same rights, powers and protections as tribes in the lower 48.

[The prepared statement of Mr. Alexander follows:]

ORAL TESTIMONY
OF
CLARENCE ALEXANDER ON
BEHALF OF THE ALASKA NATIVE COALITION

S.B. 2065

May 24, 1986

My name is Clarence Alexander, I am an Athabaskan Indian from Fort Yukon. I am here today testifying on behalf of the Alaska Native Coalition, which represents the views of IRA and Traditional Councils throughout the state who favor Native self-government. The Coalition is opposed to Senate Bill 2065 as it is presently drafted. Our critique of the bill and proposed language to correct its faults are attached to my oral testimony in the form of a letter from the Coalition to Janie Leask of the Alaska Federation of Natives. That letter refers to H.R. 4162 which in all material respects except one is identical to SB 2065. The only difference is that the House bill declares this to be "Indian legislation" and the Senate bill does not. This bill is Indian legislation the primary purpose of which is to protect Native land and it should be clearly set forth as such.

While our view is that the bill fails to go far enough in a number of respects, I will only set forth a few of its major defects. First, the "qualified transferee entity" provision was designed to provide for transfer of village and regional corporation assets directly to tribal governments, whether they be Indian Reorganization Act Councils or Traditional Councils. It is not clear that this can be done directly in the case of regional corporation lands. Also, the bill does not now expressly state that tribal governments are the intended recipients. It should expressly so provide and we offer language to that effect.

Second, the "savings clause" must be included as part of the bill. ANCSA was passed in 1971 to settle aboriginal land claims. It was simply not dealing in any way with issues of tribal self-government. If there is any principle of Indian law that is unquestionable, it is that tribal powers of self-government continue unless and until expressly extinguished by Congress. ANCSA did not expressly alter in any way the legal nature or status of any of the Alaska Native tribes. Nor did it change the preexisting relationship between the United States and the Alaska Natives as members of such tribes. Particularly, the Settlement Act neither terminated the tribes nor the status of "Natives" as tribal members.

The savings clause as presently drafted unnecessarily draws a distinction between Native councils and federally recognized tribes. The bill must make clear that the relationship between the Alaska Native villages and the federal government is a tribally-based relationship and not a federal relationship with some sort of second class social clubs as the Bill could be read to suggest.

Third, the Land Bank provisions should include protection for the many village corporations which have already been involuntarily dissolved for failure to comply with the technicalities of state corporate law. We offer language to permit transfer of corporate lands to tribal councils notwithstanding such involuntary dissolutions.

Finally, I urge you to go further than this bill presently does and enact all of the proposed legislation of the Alaska Native Coalition which is attached to this testimony. It does not single out Alaska Natives for any special treatment or benefits. To the contrary its primary thrust is to halt discrimination against Native governments and confirm that Alaska Native tribes have the same rights, powers and protections as tribes in the lower 48.

May 15, 1986

Ms. Janie Leask, President
Alaska Federation of Natives
411 West Fourth Avenue, Suite 301
Anchorage, Alaska 99501

Dear Ms. Leask:

This letter is written on behalf of the Alaska Native Coalition. First, let me thank you for appearing at our Coalition meeting on April 9th. I appreciate and share your commitment to improve communications between our two organizations.

As you know, the Coalition testified in opposition to H.R. 4162 before the House Committee on Interior and Insular Affairs on April 17, 1986 because we found the bill unacceptable in its present form. Our objections were not, however, directed at the land protection provisions which extend the restriction on stock alienation and enlarge the land bank safeguards except to note that neither went far enough. Rather, our fundamental disagreement lies with those sections of the bill which may strengthen the argument of our adversaries that ANCSA terminated Native powers of self-government. We are also opposed to the two sections which could effectively concentrate complete control of some corporations and their lands in the hands of a few wealthy stockholders. We do not understand the AFN to have intended this result and our suggested amendments would simply eliminate that possibility. With respect to tribal government, you have repeatedly stated that it is your intention as well as the Delegation's intention to keep H.R. 4162 neutral on the so-called sovereignty issues. As you are aware, the Coalition disagrees with this position. The Coalition believes that now is the time to stand firm for tribal self-government and that later will be too late. But, putting this dispute aside, H.R. 4162 as presently drafted will not, as we shall show, carry out your intention because it is not neutral on tribal government.

Section I of the attached critique briefly outlines the major defects we perceive in H.R. 4162 and offers language to correct them. Section II offers amendments that deal with what we consider non-tribal, non-controversial ANCSA issues. These issues relate to tax immunity of ANCSA lands, federally funded program eligiblity, Native townsite and 14(c)(3) lands. Finally, in section III we submit for your consideration the tribal (Resolution

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Letter-Janie Leask

35) amendments which we believe are necessary to place Alaska Native tribes on equal footing with lower 48 tribes.

We understand that the AFN 1991 committee and John Shively are presently in the process of redrafting H.R. 4162. This is to formally request that the recommended changes and additions set forth below be incorporated in the new AFN version of H.R. 4162. The legislative committee of the Coalition also requests a meeting with the 1991 committee prior to its decision on our recommendations. I would appreciate your advising me as to the time, date and place of their next meeting.

Very truly yours,

Willie Kasayulie

Willie Kasayulie
Chairman, Alaska Native Coalition

I. CRITIQUE OF H.R. 4162 AND SUGGESTED CHANGES

The Transfer Of Assets Provision

Section 5 of H.R. 4162 is intended to permit the transfer of corporation lands to other Native entities including tribal governments. While the provision itself uses the word "entity" there can be no doubt that it was included because of the desire by many to utilize tribal governments to hold and protect the land. The idea has merit since lands held by tribal governments are protected from loss by any means unless the United States Congress provides otherwise.

Elimination of dissenter's rights is essential and the bill seems satisfactory on this point, but the character of the entity to which transfer may be made is equally critical. The bill does not even use the term "tribe". Instead, it provides for transfer to a "qualified transferee entity" (QTE). Conveyance of corporation land to a QTE other than a tribe would provide no security beyond the limited protections corporate land would already have under the proposed land bank provisions. Since the purpose of the QTE provision is to insure that Alaska Native lands receive the additional protections afforded tribal property in the lower 48, the bill should expressly refer to the IRA and traditional councils recognized by the federal government in the federal register on February 13, 1985, 50 Fed. Reg. at 6055 and such councils as may be recognized in the future.

We recommend that Section 5 of H.R. 4162 be amended to read as follows:

SEC.5. The Alaska Native Claims Settlement Act is further amended by adding a new section to read as follows:

"SEC. 7a. (a)(1) A Native corporation may convey some or all of its assets, including title to the surface and/or subsurface estate of land, or any interest therein, to a qualified transferee entity for no consideration or for such consideration as its shareholders may approve.

"(2) A qualified transferee entity is an entity organized pursuant to or recognized by state or federal law, including but not limited to the Indian Reorganization Act and traditional councils listed on the federal register list of February 13, 1985, 50 Fed. Reg. 6055, and such other councils as may be added which -

"(A) have a membership composed of persons whose interest in the entity is not transferable;

"(B) provide membership in the entity for every person who holds Native common stock in the Native corporation making the transfer of assets on the day before the date of such transfer, which membership shall terminate at such stockholder's death; Provided, however, that in the event of transfer of assets from a Regional Corporation to a Native council, only those shareholders otherwise eligible for enrollment as members of the local Native council shall be provided membership; and

"(C) in addition to the persons described in paragraph (B) of this subsection, accepts as new members only Natives and descendants of Natives.

No changes in the remainder of the section are recommended.

The Land Bank Provision

Section 10 of H.R. 4162 extends to ANCSA corporation lands some of the protections available to lands owned by tribal governments elsewhere such as partial tax immunity and protection against claims based upon adverse possession, bankruptcy, or other laws affecting creditor's rights. This provision, however, fails to protect a corporation against loss of land resulting from involuntary dissolution caused by a Native corporation's failure to make required annual reports or to comply with numerous other technical requirements of state law. According to the State Commerce Department, dozens of village corporations are presently in default and a number have already been dissolved. Upon a court-ordered dissolution it is possible, if not probable, that corporate assets, including land, would be divided among the shareholders free of any restrictions. This result must be prevented.

Further, the transfer section provides that the "qualified transferee entity" (QTE) shall be protected by the land bank provisions. This would be sufficient if the QTE were an entity which would not otherwise have these protections, such as a non-profit corporation or cooperative. But where a tribe is the recipient of the property, an inference is created that Congress intended tribes to have only the protections provided by the land bank, thereby excluding the protections of the non-Intercourse Act and sovereign immunity. This is unacceptable.

We recommend that Section 10 of the bill be amended by adding a new clause (1)(E):

> "(1) All land and interests therein conveyed, pursuant to this Act, to a Native individual, Indian Reorganization Act or traditional council listed in the federal register on February 13, 1985, 50 Fed. Reg. at 6055, or such other councils as may be added, Native group, village or regional corporation or corporation established pursuant to section 14(h)(3) of this

Act shall, so long as such land and interests therein are not developed or leased to third parties or are used solely for the purposes of exploration, be entitled from the date of their conveyance to immunity from -

(E) Involuntary distribution or conveyance related to the involuntary dissolution of a corporation.

The paragraph which follows in Section 10 should be amended as follows:

> Land to which this paragraph applies shall not be considered developed solely as result of the construction, installation, or replacement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further the subsistence or other customary or traditional uses of such land: Provided further, that the immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such land or interests therein may be entitled under the Alaska National Interest Land Conservation Act, or which are available to the Indian Reorganization Act and Traditional Councils listed in the federal register on February 13, 1985, 50 Fed. Reg. 6055 and such other councils as may be added under principles

of federal Indian law.

Finally, the last provision which provides for the applicability of state condemnation law should be deleted. Tribal lands in the lower 48 are not subject to condemnation and there is no reason why Alaska tribes should not be treated the same.

The Savings Clause

Section 7 of H.R. 4162 provides:

"Nothing in this Act shall be construed as enlarging or diminishing or in any way affecting the scope of any governmental authority of a federally recognized tribe, traditional Native council or Native council organized pursuant to the Indian Reorganization Act, as amended, or any right, privilege or immunity of Alaska Natives as Native Americans in their relationship with the Government of the United States".

By listing traditional Native Councils and IRA Councils separately from "federally recognized tribes", Section 7 of H.R. 4162 implies that IRA and Traditional Councils are not federally recognized. This adds to the present confusion and probably lends weight to the argument that, with the exception of Metlakatla, there are no federally recognized tribes in Alaska. This gratuitous distintion between Native Councils and recognized tribes is unnecessary and should be deleted. Further, the final clause of this section could be read to infer that Alaska Natives have an individual rather than a tribally-based relationship with the federal government such as is enjoyed by tribes in the lower 48. Again, this erroneously implies that Alaska Native villages are some sort of second class Indian tribes which are mere conduits for administration of federal programs, rather than true governments like lower 48 tribes. This implication must be removed.

We recommend that the following language be substituted for the current provision:

> SEC. 7(c) No provision of this Act shall be construed as enlarging, diminishing or in any way affecting the scope of any governmental powers of the Indian Reorganization Act and Traditional Councils listed in the federal register of February 13, 1985, 50 Fed. Reg. at 6055 and such other councils as may be added, including inherent governmental powers and powers exercised under the Indian Reorganization Act of 1934, as amended by the Act of May 1, 1936, nor as abridging in any way the governmental powers of such councils either over their members or over any areas of Indian Country as defined in 18 U.S.C. 1151 within their respective jurisdiction.

The Issuance Of New Classes Of Stock

Section 3 of H.R. 4162 would make it possible to issue new classes of stock to any "identifiable group of Natives" for "consideration as may be permitted by law." It might be possible under this provision to sell stock to all current shareholders of a Native corporation, but as a practical matter limit issuance of the shares only to those Natives who could afford to buy them. This might enable wealthy shareholders or individuals in management who could borrow the funds to acquire the new classes of stock exclusively or nearly so.

Section 3 of H.R. 4162 would also prohibit issuance of new classes of stock exclusively to "employees, officers and/or directors" of a Native corporation so long as the Native common stock is restricted against alienation. However, the current voting restrictions provided under proposes SEC. 7(h)(6)(A)(ii) would permit those restrictions to be removed by a vote of only 26.5% (+1) of the outstanding shares. If the restrictions are removed, then employees, officers and/or directors could be issued new classes of stock.

We recommend that the proposed Section 7(g)(2) be deleted to prohibit issuance of any type of stock other than Native common stock as provided in proposed subsection 7(g)(1) and (3).

Corporate Stock Purchases

Section 4 of H.R. 4162 permits a corporation to purchase "any or all" of the Native common stock held by a shareholder. Although the stock cannot be voted when repurchased by the corporation, it would be possible in a small corporation (or any corporation with lots of cash) to effectively concentrate complete control of the corporation in the hands of the directors or members of management who are also shareholders. Unlike the provisions under 7(g) relating to issuance to new classes of stock, there is no requirement in this provision that shareholders who decide to sell be notified that the sale will effectively concentrate control of the corporation in the hands of a few.

We recommend that proposed Section 8(h)(4) be deleted or that the purposes for which a corporation could purchase its own stock be substantially limited (e.g. limit purchases to stock of shareholders who are 65 or older).

II. PROPOSED NON-TRIBAL AMENDMENTS

Several of the amendments which are part of the "Resolution 35" legislation are not controversial as they do not deal with tribal self-government or "sovereignty" issues. These proposed additions to the current bill are set forth below, along with a brief explanation.

Government Benefits

ANCSA directs that "any compensation, remuneration, revenue or other benefit received pursuant to that Act "shall be disregarded" in determining eligiblity to participate in the Food Stamp Program. Although this provision is helpful, it does not go far enough. Natives are being denied benefits in other federal or federally assisted programs because of benefits received under ANCSA. Accordingly, the proposed provision would enlarge the present protections to include all governmentally assisted programs. ANCSA Section 29(b); 43 USC § 1626(b) is amended as follows:

(b) In determining the eligibility of any household or individual Native to participate in the Food Stamp Program, receive assistance under the Social Security Act, or financial assistance or other benefits available under any other federal or federally assisted program otherwise available to the Native people of Alaska as citizens of the United States and of the State of Alaska, any compensation, remuneration, revenue, dividend, stock, land, or other benefits received by any household or any member of such household under this chapter, including any dividend or land received from such individual's Native corporation or Native group organized under this chapter, shall be disregarded and shall not be considered as a resource or otherwise utilized as a basis for making such determinations.

14(c)(3) Lands

This provision would authorize Native corporations to reconvey ANCSA 14(c)(3) lands to Native tribes rather than state-chartered municipalities or the state itself. It would, in effect, create a right of first refusal in favor of village tribal governments. It also authorizes the reconveyance of airports and adjacent lands to tribal governments.

Amend 43 U.S.C. 1613(c)(3) as follows:

(3) the village corporation shall then convey to any Municipal corporation in the Native village or to the State in trust for any Municipal corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided that upon request of the

local Indian Reorganization Act or Traditional Council listed in the federal register on February 13, 1985, 50 Fed. Reg. 6055, and such other councils as may be added the village corporation shall convey to such Native council title to the surface estate in those lands that would, by operation of this section, otherwise be transferred to the Municipal corporation or to the State in trust for any Municipal corporation established in the Native village in the future; provided further, that the amount of lands to be transferred to the Municipal corporation or in trust, or directly to the Native council or to the United States in trust for the Native council, shall be no less than 1,280 acres unless the village corporation, [and] the Municipal corporation or, the State in trust, or the Native council or the United States in trust for the Native council, can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, that any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the village corporation by the Municipal corporation or the State in trust: Provided, however, that the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal corporation to the State in trust, nor shall it include the issuance of free use permits or other authorizations for such purposes, and; Provided further, that where the land is transferred to the Secretary in trust for a Native council, or directly to the Native council the requirement that revenues derived from the sale of surface resources harvested or extracted from lands be paid to the village corporation shall not apply.

(4) the village corporation shall convey to the Federal Government, State, or to the appropriate Municipal corporation, or, upon request of the local Native council, to the United States in trust for that Native council, or directly to the Native council, title to the surface estate for existing airport sites, airway beacons, and other navigation aids, together with such additional acreage and/or easements as are necessary to provide related services and to insure safe approaches to airport runways;

Amend 43 U.S.C. 1613(f)(3) as follows:

(f) When the Secretary issues a patent to a village corporation for the surface estate in land pursuant to subsections (a) and (b), he shall issue to the regional corporation for the region in which the lands are located a patent to the subsurface estate in such lands, except lands located in the National Wildlife Refuge System and lands withdrawn or reserved for national defense purposes, including Naval Petroleum Reserve Numbered 4, for which in lieu rights are provided for in subsection 12(a)(1): Provided, that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village shall be subject to the consent of the [village corporation] local Native council where that Native council is the owner of said lands. As to all other lands in the Native village, consent of the village corporation shall be required.

Townsite Lands

Under present law, Native townsite lands which were unoccupied as of October 21, 1976 (the date on which the Townsite Acts were repealed) whether subdivided or not, are to be transferred to the Municipal government for the village in which the townsite lands are located. This provision would authorize the transfer of such lands to Native tribes. First, for those communities for which no Municipal corporation exists or is not presently functioning the local tribal governments may have the land transferred to the United States in trust for them, or obtain it in fee. Second, for those villages which have functioning Municipal governments, this section allows those governments to decline the transfer of townsite lands from the townsite trustee. In such a case, the local tribal government will be allowed to have the land transferred to the United States in trust for it, or to the tribe in fee. Where no city exists the amendment makes clear that townsite lands could be transferred to a tribal government.

Add a new section, 43 U.S.C. § 739 as follows:

> Notwithstanding section 703(a) of the Act of October 21, 1976, Pub. L. 94-579, 90 Stat. 2789, lands remaining unoccupied as of October 21, 1976 in a townsite established pursuant to section 3 of the Act of May 25, 1926, Ch. 379, 44 Stat. 629 (formerly codified at 43 U.S.C. § 735), whether subdivided or not, shall, at the request of the local Native council for the village in which such townsite lands are located, be transferred to the United States in trust for said Native council or to said Native council in fee, provided that no Municipal corporation organized under the laws of the State of Alaska has been established or is presently functioning in the

village in which such townsite lands are located: Provided further, that where a Municipal corporation organized under the laws of the State of Alaska has been established and is presently functioning in the village in which the unoccupied townsite lands are located, and where said Municipal corporation declines to accept transfer of the unoccupied townsite lands, such lands shall, at the request of the local Native council for the village in which the townsite lands are located, be transferred to the United States in trust for said Native council or to such council in fee.

Tax Immunity

These provisions relate to issues of tax immunity, and the core concept behind each provision is borrowed from the ordinary state of affairs involving Indian property elsewhere in the United States in which neither the property nor income earned from such property may be taxed. ANCSA only provided immunity from taxation for corporate lands for twenty years and only then if the lands are not developed or leased to third parties. H.R. 4162 extends that tax immunity indefinitely, but limits it to undeveloped, unleased land. Our proposed amendments extend the period of tax immunity indefinitely and cover all lands, whether or not developed or leased. This is the precise situation in the lower '48, and their is no basis for discriminating against Alaska Natives.

Amend ANCSA Section 21(d), 43 U.S.C. 1620(d) as follows:

(1) All lands and interests therein conveyed, pursuant to this chapter, to a Native individual, Indian Reorganization Act or Traditional Council listed in the federal register on February 13, 1985, 50 Fed. Reg. 6055, and such other Native councils as may be added (Native councils) Native group, village or regional corporation or corporation established pursuant to section 1613(h)(3) of this title shall be entitled from the date of conveyance to immunity from --

(a) adverse possession and similar claims based upon legal theories of estoppel or the passage of time;

(b) real property taxes by the United States, the State of Alaska, or any political subdivision of the State;

(c) judgment resulting from any claim based upon the laws of bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally;

(d) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native individual, corporation or Native group or any officer, director or stockholder of any such corporation or group; and

(e) condemnation by the United States, the State of Alaska, or any political subdivision of the State; provided, that the immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such land or interest therein may be entitled under the Alaska National Interest Lands Conservation Act.

(2) All land and interest therein conveyed, pursuant to this chapter, to a Native individual, Native group, Native council, village or regional corporation or corporation established pursuant to section 1613(h)(3) of this title, and all income earned or dividends distributed from income derived from such real property interests (including all rents, royalties, profits and other revenues or proceeds derived from such property interest) shall be exempt from all forms of federal, state and local taxation until such time as such land and interests therein are no longer owned by Native individuals, Native councils, Native groups or Native cor-

porations.

(3) All income earned or dividends distributed from income earned on funds distributed to a Native individual, Native councils, Native group, village or regional corporation or corporation established pursuant to section 1613(h)(3) of this chapter shall be exempt from all forms of federal, state and local taxation.

III. PROVISIONS RELATING TO TRIBAL SELF-GOVERNMENT

The following provisions are taken from the package of proposed legislation implementing Resolution 35 which the Coalition submitted to the Committee on Interior and Insular Affairs on April 17, 1986. These amendments are necessary to place Alaska Native tribes on equal footing with tribes in the lower 48.

Provision Authorizing The Secretary To Take Land In Trust

The Department of the Interior has taken the position that ANCSA revoked the Secretary's authority to accept Alaska Native tribal land in trust. This paragraph reverses that interpetation and reaffirms Secretarial authority to accept land in trust in Alaska.

Amend 25 USC 465 as follows:

> The Secretary of the Interior is hereby authorized, in his discretion, to acquire, through purchase, relinguishment, gift, exchange or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including any lands or such rights within any state and any trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

Provision Authorizing The Secretary To Establish New Or Add To Existing Indian Reservations

In Section 74(a) of the Federal Land Policy and Management Act of 1976, 43 USC 1701, Congress revoked Secretarial authority under 25 USC 467 to establish new or add to existing Indian reservations in the State of Alaska. With the exception of Arizona and New Mexico (see 25 USC 211) the Secretary retains such authority elsewhere in the United States and there is no legitimate basis for denying Alaska Natives the same rights. All major tribes in Arizona and New Mexico already had reservations when such Secretarial power was terminated in those states. This is not the case in Alaska where only one out of 200 plus tribes has a reservation.

25 USC 467 should be amended by replacing the period

following the word "reservations" in the final provision with a colon and add the following language:

> "PROVIDED FURTHER, that the provisions of this paragraph shall be fully applicable within Alaska notwithstanding the repeal of Section 2 of the Act of May 1, 1936 (49 Stat. 1250) in Section 74(a) of the Act of October 21, 1976.

Provision Defining Indian Country In Alaska

The territory over which Indian Tribes may exercise their governmental powers is called "Indian Country". Indian Country as defined in 18 U.S.C. 1151 includes Indian Reservations, Allotments and Dependent Indian Communities. The boundaries of the dependent Indian communities in Alaska have never, however, been located. Indeed, their very existence is disputed, albeit erroneously, by the State.

This provision confirms the existence of "Indian Country" in Alaska and defines the territorial boundaries of "dependent Indian communities." It limits a "dependent Indian community" to the "traditional tribal boundaries" of Alaska Native villages entitled to lands under various provisions of ANCSA but only specifically confirms that tribally owned lands and ANCSA corporation lands within traditional tribal boundaries (plus all lands within them, regardless of ownership) are Indian Country. Thus, it does not, as some have suggested, claim the entire state as Indian Country. Rather the Indian Country status of all territory beyond the boundaries of ANCSA corporate lands would be left for judicial determination on a case by case basis.

Amend 18 USC 1151 as follows:

> Except as otherwise provided in Sections 1154 and 1156 of this title, the term "Indian Country": as used in this chapter, and for the purpose of tribal civil jurisdiction means...(b) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, including in Alaska but not limited to all lands and waters consisting of townsite lands, allotments, village and regional corporation lands, restricted townsite lots, core townships, municipal lands (and all other areas,) regardless of ownership, which lie within the exterior boundaries of such lands, and provided such lands lie within the traditional boundaries of those Alaska Native villages made eligible for certain benefits pursuant to sections 11,

14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L.92-203), or any other Alaska Native community.

Provision Protecting Tribal Lands Not Covered By The Indian Non-Intercourse Act

Currently, tribally owned lands covered by the Indian Non-Intercourse Act may not be leased, pledged or mortgaged without the consent of the Secretary of the Interior and may not be sold without the consent of Congress. This provision offers Alaska tribes the option of placing their lands under the protection of the Non-Intercourse Act or in a tribal trust status which would afford the same basic protections as that Act without the sometimes patronizing supervision of the Bureau of Indian Affairs.

The Indian Reorganization Act would be amended to include Section 476a which would give Native governments the freedom to waive application of 25 U.S.C. Section 177, and select, through general election, the terms under which their land is held. To emphasize that the tribe holds land in trust for its members, alienation of tribal lands would require approval by two-thirds of all members authorized to vote in tribal elections.

Add a new section to the Indian Reorganization Act 25 U.S.C. section 476a, as follows:

Lands acquired by Alaska Native tribes in villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92-203) may be removed from the protection of the Indian Non-Intercourse Act, 25 U.S.C. section 177, upon affirmative vote of two-thirds of those eligible to vote in tribal elections. The election shall be called and monitored by the Secretary of the Interior within 60 days of a request by the governing body of the tribe or upon a petition signed by one-third of those eligible to vote in tribal elections. Upon certification by the Secretary of the Interior of the affirmative results of such election the Native tribe shall hold such land in fee simple.

Land held in fee simple by the tribe may not be alienated absent approval of two-thirds of those eligible to vote in tribal elections. The ballot removing application of the Non-Intercourse Act may include protections desired to preserve the land for the use and benefit of tribal members. Such protections may include: (1) freedom from execution on any judgement rendered against the tribe; (2) freedom from real property taxes by the State of Alaska, or any political subdivision of the State; and (3) immunity from adverse possession and similar claims based upon legal or equitable theories of estoppel or the passage of time.

Provision Confirming Tribal Jursidiction Over Hunting, Fishing And Trapping

This paragraph is designed to clarify and confirm the authority of Alaskan tribal governments to regulate subsistence hunting and fishing.

Amend 43 USC § 1621 of the Alaska Native Claims Settlement Act by adding the following language:

(m) Notwithstanding any provision of this Act or any other law, Alaska Native tribes shall retain exclusive jurisdiction to regulate hunting, fishing and trapping in Indian Country. Provided: that the State or the Federal Government may assume jurisdiction over such hunting, fishing, and trapping if necessary to conserve, in a given geographic area, a species of fish or wildlife which is endangered. Rules and regulations promulgated pursuant to this authority shall be limited to those necessary to ensure that the species does not become endangered.

Provision Authorizing The State Of Alaska To Deal With Native Tribes On A Government To Government Basis

The State of Alaska contends that it would violate the Equal Protection, Public Purpose and Local Government provisions of the Alaska Constitution for the State to deal with Native tribal governments on a Government to Government basis or single out tribes or their members for special treatment. This provision would eliminate the grounds upon which this contention is based. The legislation would expressly authorize the discrete treatment of Alaskan Natives and therefore, under the Supremacy clause of the federal constitution override the State's contrary position.

Proposed Legislation

25 U.S.C. § 476 is amended by the addition of the following subparagraph:

(i) Notwithstanding any provision of the constitution of the State of Alaska, the State may negotiate and enter into intergovernmental agreements with Alaska Native tribes and single out such tribes or their members for special treatment for any lawful purpose. The term "Alaska Native tribe" means any Indian tribe, band, nation, or other organized group or community including but not limited to all Alaska Native villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92-203) and those IRA and traditional councils listed in the federal register on February 13, 1985, 50 Fed. Reg. 6055 and such councils as may be added.

Senator WALLOP. Thanks, Mr. Alexander.

Mr. Williams, I'm troubled by one statement, and it is probably my ignorance showing.

Your statement says that we value our land and many of us want to separate our land and our monies so we can risk the money pursuing economic development without risking our precious land. I think that's the case of anybody who is a landholder. I mean I have a ranch and I would like to risk my money without risking my ranch.

I'm asking you and Mr. Mayo if, in the attempt to make the land outside of any economic consideration, aren't you asking for your peoples to be more or less sentenced to a permanent state of poverty or an inability to generate capital unless they should be lucky enough to have large mineral assets or something appear there. Because who is going to loan you money if there is nothing against which to borrow it?

Mr. WILLIAMS. No, it's not inconsistent, Senator. When you own 12½ million acres, you're in a little bit of a different situation than somebody who owns a ranch and is able to utilize the whole thing for economic development.

You cannot use 12½ million acres under any circumstances for a comprehensive economic development plan in the respect that you're talking about.

Senator WALLOP. No, I'm not suggesting that you risk the whole 12½ million. But if all of the 12½ million——

Mr. WILLIAMS. Can I finish?

Senator WALLOP. Yes, please.

Mr. WILLIAMS. Most of our land is subsistence land. We occupy areas of subsistence areas. Our land has to be compact and contiguous, according to the Act. We selected the land where we are located. Our economy is a subsistence economy. It's not a mineral economy, a corporate economy, a petroleum economy. For those developments, fine, take it out, develop it, make it with the mainstream, fine, but let us retain the rest of our land. Don't let us jeopardize the land through the normal corporate process.

Senator WALLOP. That's clear enough, but you're making a distinction which I didn't see in your statement.

Your statement suggests all land, not that which has development. You're sort of setting up two separate classifications; that which is subsistence, and that which you have decided to take out of subsistence and to risk in the economic development and the opportunities for your tribal people. Is that correct?

Mr. WILLIAMS. That's the options that are allowed in the bill. You can transfer some of the assets, you don't have to transfer the whole thing.

Senator WALLOP. Thank you.

Frank.

Senator MURKOWSKI. I just have one comment. There was a statement made with regard to the House bill, which made reference to the Indian law. And I think it fair to point out for the record that the reason that that was not indicated in the Senate bill is that the Energy Committee is the appropriate Committee in the United States Senate for Indian legislation for the most part.

We have a Select Committee on Indian Affairs, but traditionally it is the Energy Committee. So that's why that distinction was made. We don't, in effect, in the Senate have an Indian Committee. We have in the Senate the Energy Committee.

Senator WALLOP. Well, we have an Indian Committee, but ANCSA has always been in this committee and if you wish to have your Senators remain with some say over how that goes, I think you want to have——

Senator MURKOWSKI. I happen to be on the Indian Committee, too, and my association handles the conventional reservation aspects of Indian law as applicable.

In the issue of ANCSA and the Native legislation in Alaska, it has always been the Senate Energy Committee.

Senator WALLOP. Thank you all very much. I wanted to say something to the press, that the seats over here for the television camera have been reserved for the press, and any of you are welcome to come up there and use that. It is perhaps more convenient.

Now, I will ask the fifth panel to come to the table. And while they're getting up there I will ask Panel 6 to get up and come to the back there; Mary Jane Fate, Baan-O-Yell; Pat Isaacson, President Bean Ridge; Raymond Patka, Beaver Kwit'Chin; Woody Salmon, President Chalkyitsik; Louie John, Danzhit Hanlaii; Claude Demientieff, Deloycheet; Elaine Pitka, Dineega; Gilbert Stephens, Dinyee. If you people with the names that I have just called would move to the back while we begin this fifth panel.

I will ask Mr. Burggraf to begin.

STATEMENT OF ROGER C. BURGGRAF, FAIRBANKS BRANCH CHAIRMAN, ALASKA MINERS ASSOCIATION, INC.

Mr. BURGGRAF. I appreciate the opportunity to speak to you today. I'm Roger Burggraf, Chairman of the Fairbanks Branch of the Alaska Miners Association.

The statewide organization of the Alaska Miners Association will submit a position paper on the proposed amendments to ANILCA later on.

We realize there are serious legal questions in the original ANCSA bill passed in 1971. We look forward to the Act being amended to further protect the interest of the people of Alaska.

ANCSA defined the land and resources base of the indigenous people. With proper management, they have the potential of becoming the wealthiest people in the nation, and should be totally independent of State and Federal aid in the future—with proper management.

The mining industry looks forward to the opportunity of working with the indigenous people of Alaska to develop their resources in an orderly and environmentally sound manner.

For ANCSA to accomplish its purpose, the Act needs to be amended in such a manner as to eliminate many of the ambiguities of the Act. The purpose and intent of the Act must be clarified once and for all so as to eliminate the potential disputes and legal entanglements.

It is my understanding that the revenues from the mineral resources found on Native lands were to benefit all indigenous people regardless of which region these revenues were generated from.

The regional profitmaking corporations were to provide a vehicle to assist in the development of their lands. It is important that the integrity of this portion of the Act remain intact.

One of the purposes of the Act, I believe, was to help the indigenous people become self-sufficient. With the resource base they hold, there is no reason why this cannot be accomplished.

We are concerned that with the intricacies of ANCSA that hasty legislation might create more problems than it might solve.

There is over 4 years before the 1991 clauses in ANCSA will be triggered. More hearings need to be held and input given before any amendments are enacted by Congress.

One of the biggest complains is that not sufficient time has been allocated to comment on the matter of such significant importance to the Nation, Alaska, and the indigenous people.

I appreciate the opportunity to speak to you today, and will provide you with more input later on.

Senator WALLOP. Thank you, Mr. Burggraf.

Mr. Campbell.

STATEMENT OF BRUCE W. CAMPBELL, PRESIDENT, TANANA VALLEY SPORTSMEN'S RIFLE & PISTOL CLUB

Mr. CAMPBELL. Thank you for this opportunity to address S. 2065. I'm representing the Tanana Valley Sportmen's Rifle & Pistol Club, of which I am president.

We have discussed this in our meetings, and I am going to try and express some of the opinions of the membership.

I might also state that I am not paid for this position, nor in any way do I receive financial backing from any organization affected by this legislation.

We are supportive of the efforts to redress ANCSA and to make ANCSA fit the needs of the 1980's and 1990's.

There are a number of things we support in the bill, and within the three minutes, I'm going to try and list a few of them that we do not, which is somewhat unfortunate, because we are then caricatured as being opposed to the other side, and that's not in fact accurate.

Specifically one point, Section 7(a) introduces the concept of an entity which may receive the assets of a Native corporation. Now, our question is: is this entity subject to State law or Federal law? The bill uses the word "or". I suggest we should use the word "and". If we're going to use the word "or," then who is going to decide? If Congress is not going to decide whether it's State law or Federal law, then who is—me? And do I get to decide whether it's State law on Monday, Tuesday, and Thursday, and Federal law on Friday and Saturday or what?

Why does Section 7(i), page 21, line 20 now refer to as sovereign immunity for these transfer entities?

We have a number of other questions in the bill. If we have a transfer entity, what is access going to be? How would our members have access on corridors through land of a new transferred entity? How does the navigation on navigatable rivers change when we have a new, not clearly-defined entity that's not in control of these lands? If these lands are village governments, what control and powers do they have over the present access corridors, and highways and pipelines and rivers?

We bring up a whole new set of questions in this legislation, and there are just too many areas to address in a few minutes. Thank you.

[The prepared statement of Mr. Campbell follows:]

Bruce W. Campbell, Presiden
Box 82245
Fairbanks, Ak. 99708
907-488-1667

May 24, 1986

**Tanana Valley Sportsmen's
Rifle & Pistol Club**

TESTIMONY, CONGRESSIONAL HEARINGS: S.2065, "1991" Amendments.

Thank you for this breif opportunity to testify on the "1991" amendments, here in Faribanks. You have chosen a nice sunny Memorial Day weekend, and I hope you have an opportunity to enjoy your visit to our state.

I am representing the Tanana Valley Sportsmen's Rifle and Pistol Club, a group of about 320 dues paying members. This is a not-for-profit organization, and I have recieved no financial backing from TVSR&P nor any other organization affected by this legislation.

First I would like to express that there is strong support among TVSR&P for Native Alaskans. We are also in support of this effort to redress ANCSA to fit the reality of the 1980's and 1990's. We certainly want to give our support to efforts to keep our Alaskan Regional and Village Corporations viable for many years to come. Certainly the conveyance of land to these Corporations has been at a particularly glacial (congressional) speed.

There are a number of areas in the proposed legislation that are of concern to the members of TVSR&P. The complexity of the language in which the bill is written lead many to feel uncomfortable with the bill. How can this language be of benefit to average native and non-native Alaskans?

Why do the amendments now refer to Native stock and Corporations, is this meant to be a permanent racial class of Alaskans? Does this legislation protect the rights ofthe individual Alaskan, native or non-native? Or is it primarily enhancing the powers of corporate and village leaders? Are the rights and responsibilities of Alaskan citizenship maintained throughout this legislation?

The primary fear expressed by TVSR&P membership is that this bill contains the necessary language for lawyers to use as a spring board for a court decision granting special governmental status to a village or other land holding entity, outside of state laws and due process. If this is not intended then lets make it clear that all entities within the boundaries of the State of Alaska are subject to the same laws and constitution. Specifically

Sec.7a.(2) should read "...entity organized pursuant
to ...State and Federal law."
also:
(3) "... authority and powers vested...by State
and Federal law."

Why use (or) are these entities going to use state law on Monday, Wednesday, and Friday; and federal laws on Tuesday, and Thursday? Or is this a mechanism to allow for the establishment of congressionally empowered, racially defined, governments?

If Regional Corporations need special protection against the powers of a sovereign tribal government immune from lawsuit,etc., then what about the rest of the residents of the state? (Page 21)

Why does this legislation refer to "Native" stock, etc.

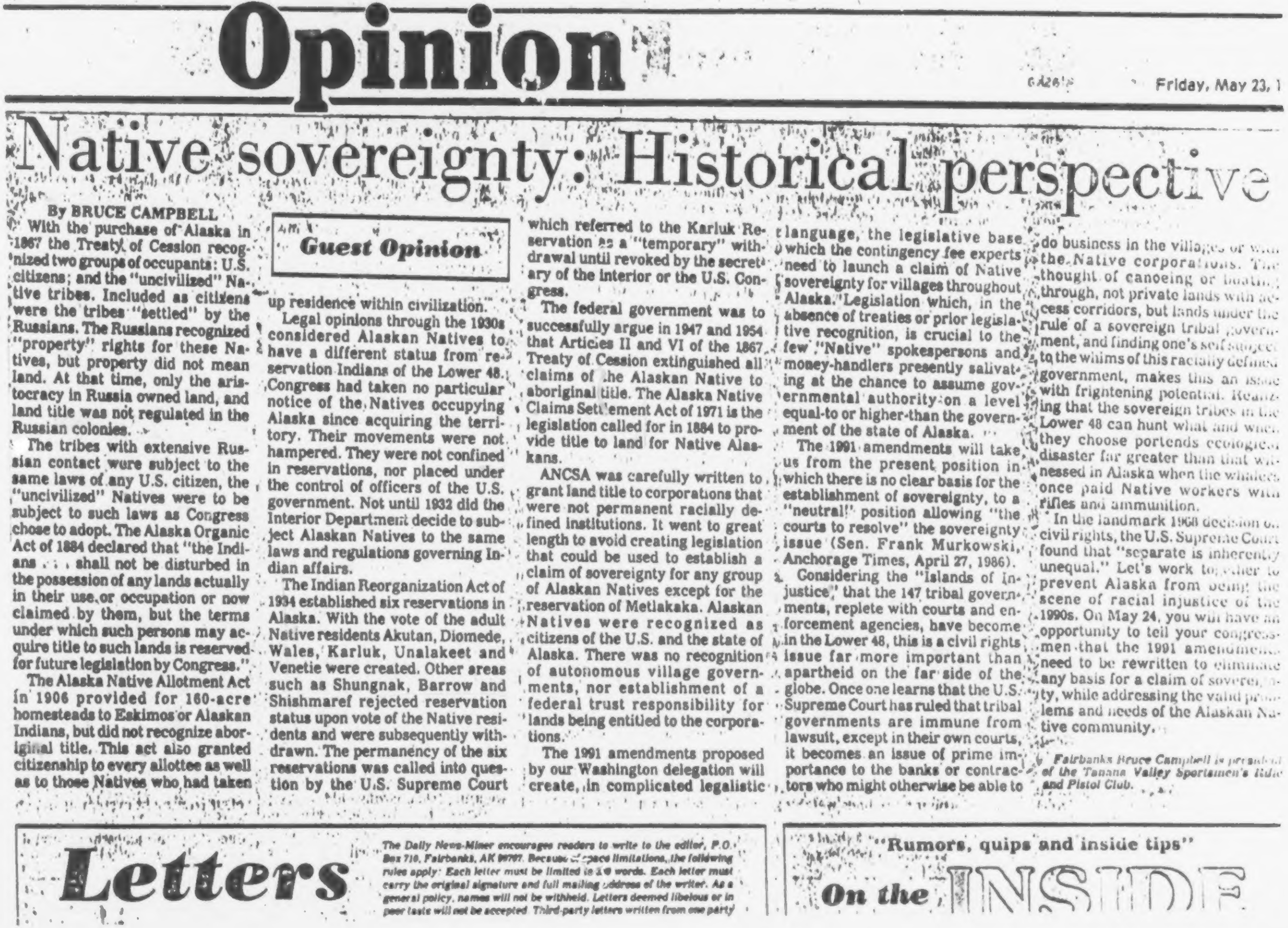
What are the rights, priviledges, and immunities of Native Americans now being applied to Alaska Natives. And why is this topic included in the Lands Settlement?

"Separate is inherently unequal". Lets not take a giant step backwards for Alaskan Natives. Lets do address the valid needs and issues facing the native community in Alaska today.

Sincerely Yours,

Bruce W. Campbell

Enclosures



Opinion

Friday, May 23, 1

Native sovereignty: Historical perspective

Guest Opinion

By BRUCE CAMPBELL

With the purchase of Alaska in 1867 the Treaty of Cession recognized two groups of occupants: U.S. citizens; and the "uncivilized" Native tribes. Included as citizens were the tribes "settled" by the Russians. The Russians recognized "property" rights for these Natives, but property did not mean land. At that time, only the aristocracy in Russia owned land, and land title was not regulated in the Russian colonies.

The tribes with extensive Russian contact were subject to the same laws of any U.S. citizen, the "uncivilized" Natives were to be subject to such laws as Congress chose to adopt. The Alaska Organic Act of 1884 declared that "the Indians . . . shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress."

The Alaska Native Allotment Act in 1906 provided for 160-acre homesteads to Eskimos or Alaskan Indians, but did not recognize aboriginal title. This act also granted citizenship to every allottee as well as to those Natives who had taken up residence within civilization.

Legal opinions through the 1930s considered Alaskan Natives to have a different status from reservation Indians of the Lower 48. Congress had taken no particular notice of the Natives occupying Alaska since acquiring the territory. Their movements were not hampered. They were not confined in reservations, nor placed under the control of officers of the U.S. government. Not until 1932 did the Interior Department decide to subject Alaskan Natives to the same laws and regulations governing Indian affairs.

The Indian Reorganization Act of 1934 established six reservations in Alaska. With the vote of the adult Native residents Akutan, Diomede, Wales, Karluk, Unalakeet and Venetie were created. Other areas such as Shungnak, Barrow and Shishmaref rejected reservation status upon vote of the Native residents and were subsequently withdrawn. The permanency of the six reservations was called into question by the U.S. Supreme Court which referred to the Karluk Reservation as a "temporary" withdrawal until revoked by the secretary of the interior or the U.S. Congress.

The federal government was to successfully argue in 1947 and 1954 that Articles II and VI of the 1867 Treaty of Cession extinguished all claims of the Alaskan Native to aboriginal title. The Alaska Native Claims Settlement Act of 1971 is the legislation called for in 1884 to provide title to land for Native Alaskans.

ANCSA was carefully written to grant land title to corporations that were not permanent racially defined institutions. It went to great length to avoid creating legislation that could be used to establish a claim of sovereignty for any group of Alaskan Natives except for the reservation of Metlakaka. Alaskan Natives were recognized as citizens of the U.S. and the state of Alaska. There was no recognition of autonomous village governments, nor establishment of a federal trust responsibility for lands being entitled to the corporations.

The 1991 amendments proposed by our Washington delegation will create, in complicated legalistic language, the legislative base which the contingency fee experts need to launch a claim of Native sovereignty for villages throughout Alaska. Legislation which, in the absence of treaties or prior legislative recognition, is crucial to the few "Native" spokespersons and money-handlers presently salivating at the chance to assume governmental authority on a level equal-to or higher-than the government of the state of Alaska.

The 1991 amendments will take us from the present position in which there is no clear basis for the establishment of sovereignty, to a "neutral" position allowing "the courts to resolve" the sovereignty issue (Sen. Frank Murkowski, Anchorage Times, April 27, 1986).

Considering the "Islands of Injustice," that the 147 tribal governments, replete with courts and enforcement agencies, have become in the Lower 48, this is a civil rights issue far more important than apartheid on the far side of the globe. Once one learns that the U.S. Supreme Court has ruled that tribal governments are immune from lawsuit, except in their own courts, it becomes an issue of prime importance to the banks or contractors who might otherwise be able to do business in the villages or with the Native corporations. The thought of canoeing or boating through, not private lands with access corridors, but lands under the rule of a sovereign tribal government, and finding one's self subject to the whims of this racially defined government, makes this an issue with frightening potential. Realizing that the sovereign tribes in the Lower 48 can hunt what and when they choose portends ecological disaster far greater than that witnessed in Alaska when the whalers once paid Native workers with rifles and ammunition.

In the landmark 1968 decision on civil rights, the U.S. Supreme Court found that "separate is inherently unequal." Let's work together to prevent Alaska from being the scene of racial injustice of the 1990s. On May 24, you will have an opportunity to tell your congressmen that the 1991 amendments need to be rewritten to eliminate any basis for a claim of sovereignty, while addressing the valid problems and needs of the Alaskan Native community.

Fairbanks Bruce Campbell is president of the Tanana Valley Sportsmen's Rifle and Pistol Club.

Letters

The Daily News-Miner encourages readers to write to the editor, P.O. Box 710, Fairbanks, AK 99707. Because of space limitations, the following rules apply: Each letter must be limited to [illegible] words. Each letter must carry the original signature and full mailing address of the writer. As a general policy, names will not be withheld. Letters deemed libelous or in poor taste will not be accepted. Third-party letters written from one party

"Rumors, quips and inside tips"

On the INSIDE

Tanana Valley Sportsmen's Association
Resolution and Findings: "1991 Amendments", as proposed
by Senator Ted Stevens (S.2065) and Congressman Don
Young (H.R.4162), May 13, 1986.

All residents of the State of Alaska have traditionally been considered as equal citizens under the law, and the Constitution of the State of Alaska. We were led to believe that the United States Congress declared its policy in Section 2(b) of the 1971 Alaska Natives Claims Settlement Act by stating that: "the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska."

The State of Alaska has been an active participant in effecting the Alaska Native Claims Settlement Act, has contributed $500,000,000 from the state treasury to the 13 Alaska Native regional corporations, and has supported the granting of title to 44,000,000 acres of land in the state. Citizens of the state have been called upon to support this action, believing that the Alaska Native Claims Settlement Act provided for the gradual transition from trust status for Alaskan Natives to equality for all Alaska citizens.

The introduction of S. 2065 and H.R. 4162 by members of the Alaska Congressional Delegation substantially amends the intent and specific agreements of the Alaska Native Claims Settlement Act. This action, at the federal level, will weaken the State of Alaska's position in treating all Alaskans equally. It is detrimental to the long term social, cultural, and ecomomic future of the citizens of the state.

Alaskans were led to believe that the Alaska Native Claims Settlement Act intended that the Alaskan Native Community, through its regional corporations, would become a significant element of the business and economic enterprise system in the state, However, certain immunities included in the proposed 1991 amendments can preclude free economic exchange.

We believe that language included in the "1991" amendments, currently proposed, would legislatively alter the intent and provisions of ANCSA by creating permanent racially defined institutions, by granting racial stock provisions, or by establishing racially defined tax privileges. We oppose any amendments to the 1971 ANCSA that would establish a unique relationship between the federal government and select racial groups within the State of Alaska, especially ones that would cause Alaska Natives to relinquish their Alaskan and United States "first class citizen" status, and that would place Alaskan Natives in the same category as other Native American "wards of the United States Government".

We do not oppose extending the deadline of ANCSA to the year 1996. We do not oppose any clearly written amendments that address any of the problems of the regional or village corporations or Native Alaskans as a whole or part, as long as these amendments are written in such language as to be understandable by both Native and Non-native Alaskans, and public hearings are held in all election districts of the State of Alaska.

We oppose amendments to the Act that would permit the transfer of nontaxable properties to entities (such as tribes or tribal councils) organized under federal law, but not organized and recognized under the constitution and laws of the State of Alaska. Amendments that would allow unequal exempt status of developed land, and thereby transfer the tax burden to other existing land owners, must be opposed.

Language in any proposed amendments to the 1971 Alaska Native Claims Settlement Act which attempts to reassert a "neutral" position in the creation of separate and inherently unequal racially defined institutions such as tribes or tribal governments and reservations, or Native Homelands, must be opposed on moral grounds.

THE POLITICS OF SOVEREIGNTY

The push to establish sovereign rights for aboriginal tribes or racially defined tribal village governments is not so much an issue of racial separateness or idenity as it is one of political aspiration. The combatants are not natives vs non-natives, they are highly paid activist lawyers and carpetbaggers vs common Alaskans of all races, creeds, nations of origin, etc. The aboriginal rights activists are attempting to expand their political power base along racial lines, one of the oldest tools of the political profiteer. Hitler and many others did it, today we have legal activist lawyers.

We also have a number of villages in the state which are claiming tribal authority for lawmaking. They have passed "laws" by vote of their tribal members for the governance of members and non-members. It is our duty, as citizens of this country to remember and explain to the native community the reasons behind the benchmark U.S. Supreme Court decision in "Brown vs The Board of Education" which stated quite simply that: Separate is inherenty unequal.

It will not be easy to explain, for native Alaskans are being asked to exchange the individual rights and responsibilities of citizenship for a "greater good" of tribal unity. Rights and responsibilities that they have been insulated from with thirty years of federal wardship, welfare and coincidentally the higest rates of violent crime, suicide, child abuse and substance abuse. Very real problems that may well be corrected through the strengthening of individual or cultural idenity. But will be seriously hurt by the wardship and racial separation inherent in the claim to tribal sovereignty.

It is also our responsibility to ask who is encouraging the creation of "aboriginal" laws, courts and village governments. For it is these few individuals who seek to profit from the circumvention of the legal process of establishing their village as a city of the State of Alaska. I do not know what they will gain once they have established themselves as "leaders", "spokespersons" and "money handlers" for sovereign tribal government, but I can guess.

In one village that has just established such a "tribal council", the replacement of the existing legal city government was justified as a means to attract federal support (like 'lower '48 Indian tribes) in addition to the monies received (illegally?) from the state.

The present leadership structure of the aboriginal movement has utilized their money to pay for lawsuits against the state, against oil companies and now against placer miners. As they begin to assert their "aboriginal claim" to exclusive hunting and fishing priviledges throughout the state we can expect to see commerical fisherman, hunters and other outdoorsmen lined up as cannon fodder for lawyers.

Who will benefit from the establishment of subsistence and sovereignty is not clear. Certinately it will not be your average village resident. Senator Stevens is quite correct when he blames gubernatorial candidate Ron Somerville for perceiving, understanding and clarifying these issues. Issues that are not "aboriginal rights" as much as they are racial exploitation and "patronization". Whether taking such a strong moral stand is politically wise will be seen in the next few months.

The Killer Whale Will Not Falter

Reprinted from Alaska Empire—Juneau, Alaska, March 17, 1965

William Paul, Sr., is the founding father of the Alaska Native land claims movement. He was the first Alaska Native to become a lawyer and was active in Native issues all of his life. He was often embroiled in controversy and conflict. He was not a man fearful to speak his mind and advocate for positions that were not always popular. In fact, his struggle to achieve a land claims settlement emerged during a period when many Native people were trying to shed their "Nativeness" and become good American citizens. It was thought by some Native leaders that advocating for "aboriginal rights" or "Indian title" conflicted with American citizenship.

The Alaska Native Claims Settlement Act was enacted in 1971, but many of the issues William Paul Sr., addressed through his lifetime are not resolved. Although the editors would not necessarily have agreed with the final resolution proposed in this letter by this great hero, it gives hint of the values and the cultural basis which motivated this great man.

Editor
Alaska Empire

We have long been silent, and now regret the silence that has enabled the men who come as wolves to feast upon the remnants of our Tlingit nation and the survivors of the Haida.

After long and deliberate consultation with ranks of our people I voice their sentiments and I call upon my grandfathers of the Shun Ku Kati and the Thlu Kah Utti, of my fathers' of the Kah Gwon Ton and my brothers and sisters of the Killer-Whale. I ask all the paladians of all the clans to give assistance in any way possible, to rend the shroud that the parasites have wound about our betrayed nation.

I speak now, only as a voice, but gathered round about me are the multitudes of my people who have been betrayed by their own elected representatives of the Tlingit-Haida Association.

Where money is, there shall you find also those who seek power and dominion. Regretfully, I say, that among those who would divide, subvert and control our true desires, are the same people whom we elected to represent us and our wishes before the government of the United States of America. This was, and is, aided and abetted by the Bureau who would administer indirectly, the funds paid for our birthrights.

Before the advent of the United States government upon our lands, we were an unconquered nation. Our sphere of influence from the watersheds of the McKenzie and Yukon rivers, east to Great Slave Lake, west to Cook's Inlet and south to the maw of the great Columbia River were our trade routes. The great Haida held the outlying islands of Prince of Wales and Kasaan until the mighty Koo Yu decimated them over the killing of a chief's son and capture of his daughter-in-law and their children. This war should never have been, for it was caused by an act of utmost senselessness and committed by a roaming band of young and irresponsible warriors, without the sanction or plan of the Haida nation. Time has done much to heal these wounds of both proud and valiant people. Now I call upon my in-laws of the Koo Yu and my in-laws and friends of the Haida to forget all differences and stand together against the seen and unseen foes, who gather round about us.

PHOTO•ANM

William Paul was often embroiled in controversy and conflict. He was not a man fearful to speak his mind and advocate for positions that were not always popular. "I can only speak for myself and mine, and I renew the pledge made at that battle. The Killer-Whale shall not falter, and wherever this is read, let it be known . . . ."

> **"Let not the knowledgeable petty tyrants of any group forbid you to write of your preference to your elected congressmen of the United States of America in Washington."**

To the great house of the Shun Ku Kati, my grandfathers: I must call upon you, as did my ancestor, whom you helped avenge the slaying of a paladin of my clan of the Killer-Whale. Lost in a world of newness that I can barely understand, I part the curtain of time through which you may see our eternal unity. I can only speak for myself and mine, and I renew the pledge made at that battle. The Killer-Whale shall not falter, and wherever this is read, let it be known to all Killer-Whales that the Shun Ku Kati will speak with our voices. Whenever you have need of us, we will be there.

To the indomitable houses of the Chilkoot and the Chilkat, wherein my ancestors have lived died since pre-Noachic times, I ask unity of the clans and say, [redacted] will dance again, in the shadows of these great houses, but it shall be only after our pleas have been heard and the common enemy overcome. New fields of endeavor must be our battle ground. We must move with the swiftness of the Eagle and the wisdom of the Raven and boldness of the Killer-Whale.

To the great Bear and my fathers of the Wolf, to my uncles and aunts and my in-laws of all the clans, I ask one last but important understanding.

In the 1850s was fought the last great internal war of the Tlingit nation, wherein two great autonomous houses led brother against brother, in-law against in-law and uncle against uncle. We refuse to make this division again, I ask my parents of the Stikine and Sitkas to never again remember the abyss of greed that swallowed the paladins and warriors of these noble houses. The houses of the Wrangells are ethnically and historically an integral segment of our Tlingit nation. As such they will share equally, as God has so ordained.

I urge the people of all clans, all houses of every tribe to write and make known their common wish. That every man, woman and child of the great houses of the Haida and the Tlingit nations be paid fully their entire share of the monetary award. That no continued administration of these funds is necessary, beyond proper distribution. That no equitable distribution can be made, except upon a per capita basis. That the vast diffusion of our people, through the other 49 states and other countries of the world has made any other method of distribution the talk of vultures who would pick your flesh to the bones. You must petition your pleas in quadruplicate. One to your Senators Bartlett and Gruening. One to Representative Ralph Rivers in Washington. One to the Secretary of the Interior. Keep a record of your signatures.

I do not say that all of our tribal representatives were to blame for the present state of affairs, but I do submit that I know they were pressured and beguiled by the presentation of a solution by a powerful group, who said it was the only way to properly advance to the payment stage. Beyond all bureaucratic maneuvering, there still sits the spectral democratic process that will overcome all that would enslave you.

You may work properly through your local Tlingit-Haida Association or apart, as you will, but let the most enterprising of your youth have their voice. Be bold and let no one beguile you with honeyed words of compromise. Break the bondage of ignorance. Let not the knowledgeable petty tyrants of any group forbid you to write of your preference to your elected Congressmen of the United States of America in Washington. Let the Secretary of the Interior know your thoughts. If your elected officers of the Tlingit-Haida Association balk at the command of the people, get rid of them and elect another who will sound your cries to the world. Bombard your elected officials of Congress with letters, telegrams and if possible, phone them.

I cannot over emphasize the importance of the work that I have outlined. If you do not do this, the Bureau and their henchmen who are Tlingit and Haida alike will usurp the power and dominion over your people and your moneys. Do not wait a single day. Time is of the essence. A sub-committee has convened in Washington to decide your fate, today. You must move swiftly...NOW!

Following is example petition:

We, the undersigned, members of the Tlingit-Haida Association, of aboriginal extraction and, beneficiaries of the Tlingit-Haida judgment and award, urge the following be done, by our senators and representatives in the Congress of the United States.

That the Department of the Interiors, Bureau of Indian Affairs's recommendations be carefully investigated and that our wishes on per capita payments be rigidly adhered to.

That the Secretary of the Interior be instructed that the majority of all Alaska Tlingits and Haidas demand only per capita payment.

That no continued administration of these funds, beyond proper per capital distribution is necessary.

That the vast diffusion of our peoples, throughout the United States and other countries of the world forbids any other method of distribution of moneys of this award.

Da Kee Xheen
Zuk Keese
Nah Kee Ah Keet

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It is easy to confuse sovereignty and subsistence, because a few "pro-native"leaders have tried very hard to use subsistence to provide a basis for the establishment of sovereign status for predominantly native regions of the State.

It must be clearly stated from the start that opposition to the 1991 amendments is limited to the "Hidden Agenda" language that would reassert the potential for the creation of racially defined "sovereign" institutions in the State of Alaska. The 1991 amendments address valid concerns and problems being faced by the Alaskan regional and village corporations. Surely the potential for a T. Bones "Pick'n" of these corporations was not considered adequately fifteen years ago.

The problem is that both Stevens and Senator Murkowski are on record as supporting the language that is designed to make ANCSA "neutral" on the issue of native sovereignty. This is a major step backwards for the recognition of Native Alaskans as citizens of Alaska and the U.S. Neutrality is in itself immoral, ask any Black American if he would admire a neutral position on racisim in the U.S. The wording supported by our delegation will create vast profit potential for the lawyers and lobbiests who, suprize, suprize, created the bill.

The creation of racially defined institutions and reservations (homelands) immune from lawsuit (Martinez,1978), beyond all State Laws, in controll of fish and game on their and all adjoining lands, in controll of access, with their own laws, courts, enforcement powers, all in the hands of of the faction controlling a particular village, is terrifying unless you live in Wash., D.C.

The sovereignty issue is not an issue of home rule, or local government control. This is presently available under State law. The thought of canoeing down a river, such as the Yukon, and finding oneself subject to the whims of a self established tribal government, is something that our congressional delegation is trying to legislate a neutral stand on.

Native sovereignty deserves our attention as Alaskans as well as users of the out of doors!

Bruce Campbell, R.P.

Senator WALLOP. Thank you, Mr. Campbell. We would be happy to hear from your club on all the areas you wish to in the bill through the submission of written testimony to the Committee or to Senator Murkowski's office.

Mr. HARBO. I had asked, and was granted the permission to testify for the Outdoor Council as well as an individual. Can I do both of those now?

Senator WALLOP. Let me ask you to choose between them, because if I do that, you can see where I might get before the day is over. If everybody comes up and wishes to testify for themselves and someone else, then suddenly I don't have 140 any more, we have 280.

Mr. HARBO. Okay. I was assured by Senator Murkowski's office that I could have three minutes for each, and I wondered if I could do it now.

Senator WALLOP. Well, I would prefer that you do it all within three minutes. If I have everybody coming up with testimony for somebody else, I'm sure you can appreciate what it will do to the rest of the hearing. So if I can ask you to give a summary statement of both within the three minutes or pick one. Both will be in the record as though they had been delivered in their entirety.

Mr. HARBO. I would appreciate knowing those ground rules because I would have changed my oral testimony then.

Senator WALLOP. Well, I'm sorry about that, Mr. Harbo, but I do have the whole hearing to try and conduct. And I still hope you understand that my purpose is to take care of people on the holiday weekend in the later afternoon who also have places they would like to be.

STATEMENT OF RONALD J. SOMERVILLE, AS PRESENTED BY SAMUEL HARBO

Mr. HARBO. Okay. My name is Sam Harbo. I am testifying for Ronald Somerville, a 47-year resident of Alaska who currently resides at 3780 McGuinnes, Juneau. This is his testimony.

I am testifying to convince you of the important consequences of the ANCSA amendments in S. 2065. Certain technical adjustments to the Act are justified, due to the endless litigation that has occurred, to the continued delays in awarding clear title to Native land selections, and to concerns about corporate stock.

However, other provisions in S. 2065 are not technical adjustments, for they significantly alter the intent of the original legislation, and, consequently, affect the State as a whole.

I fully appreciate the concerns of the Native community over the issuance of stock and the possibility that outsiders could gain control of their corporations. However, when adopting amendments protecting corporate interests, the rights of individual Alaska Natives also must be protected and treated fairly.

Several portions of the amendments create grave concerns for many Alaskans, those portions relate to sovereignty.

Most Alaskans are convinced that the whole issue of native rights and claims was finally settled with ANCSA, and it did not provide for sovereignty.

Hence, it is critical that the amendment package not change the basic intent on this issue. For that reason, I offer the following comments: The Section 7 amendment should be entirely deleted or amended to stress that nothing in the amendment package may be interpreted to recognize tribal government authorities; any amendments finally adopted by Congress should have an immunity clause which guarantees that no special rights of tribal self-government will be granted through court interpretation of the amendment.

It is my position, which is shared by many Alaskans, that Alaska should not have separate governments created within Alaska—far less, ones that are racially defined.

I also believe that Congress, after full review, will be unwilling to reestablish the financially and socially costly trustee relationship with 200 plus village tribal governments in Alaska.

I am also concerned that provisions allowing the holding of stock in common by a tribal entity may well establish an undersirable precedence, which could be the cornerstone for later court rulings in favor of sovereignty.

If this basic approach is pursued, language must be inserted which guarantees that such provisions will not be used as a legal argument for tribal sovereignty.

Regardless of which technical or substantive amendments are finally agreed upon, it is absolutely imperative that precise language be inserted which provides a virtual guarantee that tribal government is not a product of these amendments.

We must adhere to the basic principals of the original settlement; that creating a racially-defined institution is absolutely unacceptable.

Thank you for the opportunity.

[The prepared statement of Mr. Somerville follows:]

HEARING
U.S. SENATE

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS
S 2065
MAY 24, 1986

TESTIMONY OF:
RONALD J. SOMERVILLE
3780 MCGINNIS DRIVE
JUNEAU, ALASKA 99801

MY NAME IS RON SOMERVILLE. I AM A 47 YEAR RESIDENT OF ALASKA AND PRESENTLY RESIDE IN JUNEAU, ALASKA. I AM TESTIFYING ON MY OWN BEHALF AND ON BEHALF OF A NUMBER OF CONCERNED ALASKANS WHO REQUESTED THAT I PRESENT THIS TESTIMONY.

SINCE WE ARE BEING ALLOWED ONLY LIMITED TIME FOR OUR TESTIMONY, I WOULD REQUEST THAT THE FULL TEXT OF MY TESTIMONY AND THE ATTACHMENT BE ENTERED INTO THE HEARING RECORDS.

I AM TESTIFYING PRIMARILY TO CONVINCE YOU OF THE IMPORTANT CONSEQUENCES OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS BEING PRESENTED IN S 2065. THIS LEGISLATION IS IMPORTANT NOT ONLY TO MEET SOME OF THE FEDERAL OBLIGATIONS AND COMMITMENTS TO ALASKAN NATIVES ESTABLISHED IN THE ORIGNINAL SETTLEMENT ACT BUT IT IS OF CRITICAL CONCERN TO ALASKA RESIDENTS AS A WHOLE.

WHILE MOST NEW STATES HAVE BEEN AWARDED AMPLE TIME TO ADJUST TO THE RESPONSIBILITIES AND PRIVILEGES OF STATEHOOD, ALASKA HAS BEEN CONTINUOUSLY BOMBARDED WITH FEDERAL MODIFICATIONS TO OUR ORIGINAL CHARTER. ALASKANS ARE BECOMING INCREASINGLY BITTER WITH CONTINUOUS EFFORTS TO MAKE US SECOND CLASS CITIZENS.

MOST ALASKANS ARE FULLY SUPPORTIVE OF THE BASIC PHILOSOPHY AND THE INTENT OF THE 1971 ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA). IN RESPONSE TO THE ALASKA STATEHOOD ACT RESERVATION CONCERNING SETTLEMENT OF NATIVE CLAIMS, AND THE NEED TO EXPEDITE CONSTRUCTION OF THE TRANS-ALASKA PIPELINE, CONGRESS TOOK ON THE TASK OF SETTLING THOSE CLAIMS.

THE FINAL VERSION OF ANCSA INCLUDED A THREE WAY AGREEMENT. IN EXCHANGE FOR THE RELINQUISHMENT OF NATIVE CLAIMS, BOTH THE FEDERAL GOVERNMENT AND THE STATE OF ALASKA AGREED TO PROVIDE A CASH SETTLEMENT OF ALMOST 1 BILLION DOLLARS ($500 MILLION FROM THE STATE TREASURY) AND 44 MILLION ACRES OF LAND. WHETHER OR NOT THIS SETTLEMENT WAS IN FACT FAIR AND EQUITABLE WILL ALWAYS BE DEBATED BUT IT IS CLEAR THAT ALL PARTIES INVOLVED ACCEPTED ITS TERMS.

HERE IN 1986 WE ARE LOOKING AT A SUBSTANTIAL NUMBER OF AMENDMENTS

TO THE ORIGINAL 1971 ALASKA NATIVE CLAIMS SETTLEMENT ACT. MANY OF THE AMENDMENTS ARE CONCERNED WITH TECHNICAL ADJUSTMENTS TO THE ORIGINAL ACT. THESE ARE CERTAINLY JUSTIFIED BECAUSE OF THE ENDLESS LITIGATION, THE CONTINUED DELAYS IN AWARDING CLEAR TITLE TO THE LANDS SELECTED AND OTHER PROBLEMS DEALING WITH CORPORATE STOCKS WHICH ARE PRIMARILY INTERNAL DECISION AFFECTING ONLY THE NATIVE COMMUNITY. THERE ARE HOWEVER, PORTIONS OF S 2065 WHICH SIGNIFICANTLY ALTER THE INTENT OF THE ORIGINAL LEGISLATION AND, AS A RESULT, AFFECT THE STATE AS A WHOLE.

SINCE THE STATE OF ALASKA WAS A MAJOR PARTY TO THE CLAIMS SETTLEMENT PROCESS, IT HARDLY SEEMS UNREASONABLE TO REQUEST THAT WE BE EFFECTIVELY CONSULTED ON ANY MODIFICATIONS.

INDIVIDUAL NATIVE RIGHTS

WE CAN FULLY APPRECIATE THE CONCERNS OF THE NATIVE COMMUNITY OVER THE ISSUANCE OF STOCK AND THE POSSIBILITY THAT OUTSIDERS COULD GAIN CONTROL OF THEIR CORPORATIONS. THERE ARE VALID CONCERNS, HOWEVER, AMONG SOME WITHIN THE NATIVE POPULATION THAT THEIR INDIVIDUAL RIGHTS ARE BEING IMPACTED WHEN CONGRESS PASSES AMENDMENTS ELIMINATING STOCK SALE PROVISIONS AND THE TRANSFER OF PARCELS OF LAND IN FEE SIMPLE TITLE TO THE INDIVIDUAL VILLAGER.

SINCE MANY VILLAGERS HAD THE UNDERSTANDING THAT THE CLAIM SETTLEMENT ACT WOULD PROVIDE FOR EVENTUAL TRANSFERS OF LAND PARCELS TO EACH STOCKHOLDER AND THAT CORPORATE STOCK WOULD EVENTUALLY BE TRANSFERABLE, IT SEEMS ONLY FAIR THAT SOME DEVICE BE INCORPORATED IN THE AMENDMENTS TO PROTECT THEIR INDIVIDUAL RIGHTS RATHER THAN ONLY THE RIGHTS OF THE CORPORATION. SOME PROVISION FOR CORPORATE FIRST RIGHTS OF REFUSAL FOR LAND AND STOCK SALES MIGHT BE MORE APPROPRIATE AS A METHOD OF PROTECTING THE CORPORATE OR VILLAGE CONCERNS WHEN AN INDIVIDUAL VILLAGER CHOSE TO SELL A PORTION OF THIS ENTITLEMENT.

I AM PARTICULARLY CONCERNED THAT THE RIGHTS OF EACH VILLAGER ARE NOT SACRIFICED IN THE HASTE TO PROTECT ONLY THE PROFIT CONCERNS OF THE REGIONAL CORPORATIONS.

HEARING PROCESS

I AM EXTREMELY CONCERNED ABOUT THE HEARING PROCESS BEING UTILIZED IN THE CONGRESSIONAL CONSIDERATION OF THIS LEGISLATION. IN THE PAST, MAJOR LEGISLATION AFFECTING ONE STATE, ESPECIALLY ALASKA, WAS CAREFULLY SCHEDULED TO ALLOW FOR FULL PARTICIPATION OF THE AFFECTED STATE RESIDENTS.

IN THE CASE OF HR 4162, ONLY ONE HOUSE COMMITTEE HEARING IN ALASKA HAD BEEN SCHEDULED (AUGUST 9, 1985) AND ONLY SELECTED PARTICIPANTS WERE ALLOWED TO TESTIFY. OTHERS PRESENT AT THE HEARING REPRESENTING OTHER VIEWPOINTS AND CONCERNS WERE NOT GIVEN THE OPPORTUNITY TO TESTIFY BECAUSE THEY WERE UNAWARE THAT YOU HAD TO SIGN UP IN ADVANCE OF THE HEARING AND THE PUBLIC HEARING WAS

POORLY ADVERTISED THROUGHOUT ALASKA. THE RECENT INTERIOR AND INSULAR AFFAIRS COMMITTEE HEARING HELD IN WASHINGTON D.C. DID NOT GIVE ALASKANS A CHANCE TO PARTICIPATE FULLY AS MOST OF US CANNOT AFFORD CONTINUOUS TRAVEL TO OUR NATION'S CAPITOL. THIS PROCESS HARDLY SEEMS IN ACCORD WITH THE PAST RECORD AND POLICIES OF CONGRESS FOR LEGISLATION HAVING SUCH BROAD AND IMPORTANT STATE IMPLICATIONS.

SENATE HEARINGS AND WORKSHOPS DEALING WITH THE 1991 AMENDMENTS HAVE BEEN TOTALLY INADEQUATE TO-DATE. THE HEARINGS AND WORKSHOPS HAVE BEEN PLAGUED WITH A LACK OF ADVANCE PUBLIC NOTICES, LIMITATIONS ON TESTIMONY, CONSTANT CHANGES IN SCHEDULES AND REQUIREMENTS THAT ALL PARTICIPANTS REGISTER IN ADVANCE.

SEVERAL OTHER PORTIONS OF THE AMENDMENTS CREATE GRAVE CONCERNS FOR MANY NON-NATIVE ALASKANS.

SOVEREIGNTY

WHEN THE 1971 ALASKA NATIVE CLAIMS SETTLEMENT ACT PASSED, IT SEEMED CLEAR WHAT CONGRESS INTENDED:

> SEC. 2 (b) THE SETTLEMENT SHOULD BE ACCOMPLISHED RAPIDLY, WITH CERTAINTY, IN CONFORMITY WITH THE REAL ECONOMIC AND SOCIAL NEEDS OF NATIVES, WITHOUT LITIGATION, WITH MAXIMUM PARTICIPATION BY NATIVES IN DECISIONS AFFECTING THEIR RIGHTS AND PROPERTY, WITHOUT ESTABLISHING ANY PERMANENT RACIALLY DEFINED INSTITUTIONS, RIGHTS, PRIVILEGES, OR OBLIGATIONS, WITHOUT CREATING A RESERVATION SYSTEM OR LENGTHY WARDSHIP OR TRUSTEESHIP, AND WITHOUT ADDING TO THE CATEGORIES OF PROPERTY AND INSTITUTIONS ENJOYING SPECIAL TAX PRIVILEGES OR TO THE LEGISLATION ESTABLISHING SPECIAL RELATIONSHIPS BETWEEN THE UNITED STATES GOVERNMENT AND THE STATE OF ALASKA;
>
> SEC. 4 (b) ALL ABORIGINAL TITLES, IF ANY, AND CLAIMS OF ABORIGINAL TITLE IN ALASKA BASED ON USE AND OCCUPANCY, INCLUDING SUBMERGED LAND UNDERNEATH ALL WATER AREAS, BOTH INLAND AND OFFSHORE, AND INCLUDING ANY ABORIGINAL HUNTING OR FISHING RIGHTS THAT MAY EXIST, ARE HEREBY EXTINGUISHED.
>
> SEC. 4 (c) ALL CLAIMS AGAINST THE UNITED STATES, THE STATE, AND ALL OTHER PERSONS THAT ARE BASED ON CLAIMS OF ABORIGINAL RIGHTS, TITLE, USE OR OCCUPANCY OF LAND OR WATER AREAS IN ALASKA, OR THAT ARE BASED ON ANY STATUTE OR TREATY OF THE UNITED STATES RELATING TO NATIVE USE AND OCCUPANCY, OR THAT ARE BASED ON THE LAWS OF ANY OTHER NATION, INCLUDING ANY SUCH CLAIMS THAT ARE PENDING BEFORE ANY FEDERAL OR STATE COURT OR THE INDIAN CLAIMS COMMISSION, ARE HEREBY EXTINGUISHED.

MOST ALASKANS ARE CONVINCED THAT THE WHOLE ISSUE OF NATIVE RIGHTS AND CLAIMS WAS FINALLY SETTLED WITH THE PASSAGE OF ANCSA. AT LEAST, IT IS A SUBJECT THAT SHOULD AND PROBABLY WILL BE ADDRESSED

BY THE COURTS. MOST IMPORTANTLY, IT IS CRUCIAL THAT THE ENTIRE ANCSA AMENDMENT PACKAGE BE ENTIRELY NEUTRAL ON THIS ISSUE. FOR THIS REASON, I OFFER THE FOLLOWING COMMENTS:

THE SECTION 7 AMENDMENT SHOULD BE ENTIRELY DELETED OR AMENDED TO STRESS THAT NOTHING IN THE AMENDMENT PACKAGE MAY BE INTERPRETED TO RECOGNIZE TRIBAL GOVERNMENTAL AUTHORITIES. IT IS QUESTIONABLE THAT IT IS APPROPRIATE TO TRY TO INTERPRET THE INTENT OF THE 1971 LEGISLATION IN 1986 UNLESS CONGRESS IS WILLING TO TACKLE THE ENTIRE QUESTION OF TRIBAL SOVEREIGNTY. IF THIS CONGRESS IS WILLING TO DECIDE THE ISSUE OF VILLAGE SOVEREIGNTY, IT SEEMS ONLY APPROPRIATE THAT ALL OF THE SOCIAL AND ECONOMIC RAMIFICATIONS OF CREATING 200 PLUS SEPARATE GOVERNMENTAL ENTITIES ENTIRELY OUTSIDE THE STATE CONSTITUTION BE CLOSELY EXAMINED.

ANY AMENDMENTS FINALLY ADOPTED BY CONGRESS SHOULD HAVE AN IMMUNITY CLAUSE WHICH GUARANTEES THAT NO SPECIAL RIGHTS OF TRIBAL SELF GOVERNMENT WILL BE GRANTED THROUGH COURT INTERPRETATIONS OF THE AMENDMENTS.

FEW ALASKANS WOULD DISAGREE THAT THE REMOTE VILLAGES OF OUR STATE HAVE VERY REAL PROBLEMS WHICH SHOULD BE AND ARE OF GENUINE CONCERN TO ALL ALASKANS. BUT IT IS HIGHLY UNLIKELY THAT THESE PROBLEMS CAN BE PROPERLY RESOLVED THROUGH THE GRANTING OF SOVEREIGNTY TO OVER TWO HUNDRED VILLAGES THROUGHOUT THIS STATE. THE SPECTER OF ALASKA BEING CARVED UP INTO OVER TWO HUNDRED SOVEREIGN PIECES RAISES MIND-BOGGLING IMPLICATIONS. THE SCENARIO OF A SOUTH-AFRICAN STYLE OF APARTHEID (SEPARATION OF RACES) WITHIN THE BORDERS OF ALASKA HAS STAGGERING CONSEQUENCES FOR THE GENERAL PEACE AND UNITY OF OUR STATE.

THE ECONOMIC IMPLICATIONS OF CREATING OVER TWO HUNDRED SEPARATE AUTONOMOUS GOVERNMENTS IN ALASKA ARE POTENTIALLY DISASTROUS. THE GRANTING OF VILLAGE SOVEREIGNTY WILL MEAN THAT NEARLY TWO-FIFTHS OF ALASKA'S LANDS AND RESOURCES WILL BE RELATIVELY INACCESSIBLE FOR DEVELOPMENT. PUT VERY SIMPLY AND CLEARLY, VILLAGE SOVEREIGNTY COULD STRIKE A DEATH BLOW TO THE FUTURE ECONOMIC DIVERSITY AND WELL-BEING OF THE STATE OF ALASKA.

FURTHER RAMIFICATIONS OF VILLAGE SOVEREIGNTY ARE: SEPARATE COURT SYSTEMS, SOVEREIGN GOVERNMENTAL STATUS, SEPARATE SCHOOL SYSTEMS, INDEPENDENT TAX AUTHORITY, EXCLUSIVE JURISDICTION OVER HUNTING AND FISHING RIGHTS, AND CONTROL OF MOVEMENTS OF NON-TRIBAL MEMBERS.

IN ADDITION, GRANTING OF VILLAGE SOVEREIGNTY WOULD VIRTUALLY ELIMINATE ANY POSSIBILITY OF CONSISTENT, PROFESSIONAL MANAGEMENT OF ALASKA'S FISH AND WILDLIFE RESOURCES. THE ESTABLISHMENT OF SOVEREIGN AUTHORITIES WILL MEAN THAT EACH TRIBE WILL BE FREE TO EXERCISE THE RIGHT OF ISSUING INDEPENDENT LICENSES FOR HUNTING AND FISHING, INCLUDING COMMERCIAL FISHING. THIS WOULD GUARANTEE THE DISMANTLING OF ALASKA'S LIMITED ENTRY SYSTEM AS WE KNOW IT TODAY. IT WOULD MAKE MANAGEMENT OF ALL MIGRATORY SPECIES

CHAOTIC, WITH EVENTUAL DISASTROUS IMPACTS ON THE RESOURCES THEMSELVES.

IT IS MY POSITION, AND ONE THAT IS SHARED BY MANY ALASKANS, THAT ALASKA SHOULD NOT HAVE SEPARATE GOVERNMENTS CREATED WITHIN ALASKA'S BORDERS--FAR LESS ONES THAT ARE RACIALLY DEFINED. I ALSO BELIEVE AFTER FULL REVIEW THAT CONGRESS WOULD BE UNWILLING TO REESTABLISH THE FINANCIALLY AND SOCIALLY COSTLY TRUSTEE RELATIONSHIP WITH 200 PLUS VILLAGE TRIBAL GOVERNMENTS IN ALASKA.

IT SEEMS IRONIC THAT THE ISSUE OF SEPARATE, RACIALLY DEFINED GOVERNMENT ENTITIES MIGHT BE CONSIDERED FOR A STATE WITHIN OUR GREAT COUNTRY WHILE AMERICA CRIES OUT IN DISGUST AGAINST APARTHEID IN SOUTH AFRICA.

ALASKA IS AT A CRITICAL CROSSROADS. WE CAN EITHER DECIDE TO GO FORWARD AS A UNIFIED STATE OR WE CAN BE SOCIALLY AND ECONOMICALLY FRACTURED. I BELIEVE THE LATTER COURSE IS ENCOURAGED BY THE AMENDMENTS BEING OFFERED AT THIS TIME, ESPECIALLY THOSE TO WHICH I HAVE REFERRED.

INCLUDED IS ATTACHMENT A WHICH CLEARLY ILLUSTRATES THE IMPORTANCE OF SECTION 7 TO THOSE ADVOCATES OF VILLAGE TRIBAL SOVEREIGNTY IN ALASKA. PARTICULAR ATTENTION SHOULD BE FOCUSED ON THE LEGAL INTENTIONS OF CREATING NEW TRUST RELATIONSHIPS.

LAND OR STOCK TRANSFERS

THE SECTION 5 AMENDMENT ALLOWS NATIVE CORPORATIONS TO TRANSFER OR CONVEY SOME OR ALL OF THEIR ASSETS TO A QUALIFIED TRANSFEREE ENTITY. HOWEVER, SECTION 5 (2) INCLUDES THE FOLLOWING:

> PRIOR TO RECEIVING A CONVEYANCE OF AN ASSET SUBJECT TO SECTION 7(i), A QUALIFIED TRANSFEREE ENTITY SHALL AGREE IN WRITING TO BE BOUND BY THE PROVISIONS OF THE AGREEMENT DATE JUNE 29, 1982......AND TO WAIVE ITS SOVEREIGN IMMUNITY, IF ANY , WITH RESPECT TO ANY CLAIMS ARISING UNDER SECTION 7 (i) OR THIS SUBSECTION.

THIS PARAGRAPH IS INTENDED TO GUARANTEE THAT SHARED REVENUES BETWEEN CORPORATIONS ARE NOT AFFECTED BY ANY SOVEREIGNTY DECLARATIONS IN THE FUTURE. MY CONCERNS ARE THAT ANY LAND OR STOCK TRANSFERS MUST INCLUDE A SIMILAR PROVISION WHICH WILL GUARANTEE THAT NO STOCK OR LAND ARE TRANSFERRED TO SOVEREIGN ENTITIES.

I AM ALSO CONCERNED THAT PROVISIONS ALLOWING THE HOLDING OF STOCK IN COMMON BY A TRIBAL ENTITY MAY WELL ESTABLISH AN UNDESIRABLE PRECEDENT WHICH MAY ESTABLISH THE CORNER STONE FOR LATER COURT RULINGS IN FAVOR OF SOVEREIGNTY. I BELIEVE THAT LANGUAGE MUST BE INSERTED IF THIS BASIC PHILOSOPHY IS PURSUED WHICH GUARANTEES THAT THIS PROVISION WILL NOT BE USED AS A LEGAL ARGUMENT FOR TRIBAL SOVEREIGNTY.

IMMUNITY PROVISIONS

SECTION 10 OF THE ANCSA AMENDMENTS DEALS WITH THE IMMUNITIES PROVISIONS. WHEREBY THE ORIGINAL INTENT OF ANCSA WAS TO EVENTUALLY PROVIDE FOR LANDS TO BE HELD IN FEE SIMPLE TITLE AFTER SOME REASONABLE TAX EXEMPT PERIOD (20 YEARS), THIS PROVISION PROVIDES A TAX EXEMPTION IN PERPETUITY FOR ALL UNDEVELOPED LANDS.

CERTAINLY, NO ONE WANTS TO SEE A SITUATION DEVELOP WHEREBY NATIVE LANDS ARE LOST BECAUSE OF THE CORPORATIONS OR THE INDIVIDUALS INABILITY TO PAY PROPERTY TAXES. HOWEVER, AN EXCLUSION IN PERPETUITY SEEMS TOTALLY UNREASONABLE.

CONGRESS INITIALLY ESTABLISHED THE ALASKA LAND BANK AS A METHOD OF TEMPORARILY REMOVING UNDEVELOPED LAND FROM THE TAX BASE. IF THE TAX CONCERNS ARE THE ONLY REASON FOR THIS AMENDMENT, WHY NOT ADHERE TO THE ORIGINAL INTENT OF CONGRESS TO RELY ON THE ALASKA LAND BANK PROCESS, RATHER THAN REESTABLISHING A TRUST RELATIONSHIP BY GRANTING TAX EXEMPTIONS INDEFINITELY?

AS STRUCTURED, THE IMMUNITIES FROM ADVERSE POSSESSION, REAL PROPERTY TAXES AND JUDGMENT FROM ANY CLAIMS ARE MAJOR MODIFICATIONS TO THE ORIGINAL ACT. EXEMPTIONS OF THIS TYPE WILL HAVE SIGNIFICANT LONG RANGE FINANCIAL IMPLICATIONS FOR THE REMAINING TAX PAYERS OF THE STATE. IT SEEMS MORE LOGICAL TO PROVIDE A REASONABLE EXTENSION (10 YEARS) FOR THE TAX EXEMPTION ON UNDEVELOPED PROPERTY OR ADHERE TO THE LAND BANK OPTIONS PROVIDED IN ANILCA.

CONSIDERING THE IMPACT ON ALL ALASKANS, ANY SERIOUS CONSIDERATION OF A TAX EXEMPTION IN PERPETUITY SHOULD AT LEAST INCLUDE "IN LIEU OF TAXES" PAYMENTS FROM THE FEDERAL GOVERNMENT TO THE LOCAL MUNICIPALITIES WHO WILL BE REQUIRED TO ABSORB THE TAX LOSSES.

BECAUSE OF THESE IMPLICATIONS, IT IS VERY IMPORTANT THAT ADEQUATE TIME BE GIVEN TO ALLOWING REASONABLE INPUT BY ALL ALASKAN TAXPAYERS AND THE VARIOUS GOVERNMENTAL ENTITIES IN ALASKA.

CONCLUSIONS

THE 1991 DEADLINE IN THE ALASKA NATIVE CLAIMS SETTLEMENT ACT HAS PROVIDED AN IMPETUS FOR EXAMINING THE IMPACT OF THE ACT ON THE ALASKA NATIVE COMMUNITY. SINCE THE ENTIRE CLAIMS SETTLEMENT WAS AN ARRANGEMENT BETWEEN THREE PARTIES INCLUDING THE STATE OF ALASKA, IT SEEMS ONLY REASONABLE THAT THE STATE BE INCLUDED IN THOSE DELIBERATIONS.

MOST IMPORTANTLY, I AM HERE TO REQUEST THAT ALL ALASKANS BE GIVEN AMPLE OPPORTUNITY TO VOICE THEIR OPINIONS ON POTENTIAL MODIFICATIONS TO ANCSA. HEARINGS TO-DATE HAVE NOT BEEN ADEQUATE.

WE ARE HOPEFUL THAT THIS COMMITTEE WILL LOOK FAVORABLY ON ADDITIONAL HEARINGS IN ALASKA BEFORE MARKING-UP S 2065. A NUMBER OF CRITICAL ISSUES ARE ENCOMPASSED IN THE PROPOSED AMENDMENTS AND IT IS ONLY FAIR AND CONSISTENT WITH PAST CONGRESSIONAL POLICIES THAT THESE ISSUES ARE ADEQUATELY REVIEWED AND AIRED.

THERE ARE SOME INDICATIONS THAT THE SCHEDULE FOR THIS LEGISLATION MAY INCLUDE FINAL PASSAGE BY OCTOBER OF 1986. THERE HARDLY SEEMS TO BE A NEED TO RAILROAD LEGISLATION THROUGH FIVE YEARS BEFORE THE DEADLINE AND, IN THE PROCESS, HAMPER ADEQUATE CONSIDERATION OF ITS IMPACT ON ALL ALASKANS.

PERCEPTIONS ABOUT FAIR AND OPEN GOVERNMENT ARE EXTREMELY IMPORTANT AT THIS TIME IN ALASKA'S HISTORY. QUITE FRANKLY, THE GENERAL PUBLIC'S PERCEPTIONS ON THIS SUBJECT ARE THAT THE DETAILS ARE EXTREMELY COMPLEX AND SOMEONE IS TRYING TO COVER UP THEIR FULL IMPACTS UNTIL THE LEGISLATION IS ADOPTED. THE LACK OF OPEN PUBLIC PARTICIPATION AND THE FACT THAT THIS LEGISLATION IS ON A LEGISLATIVE FAST TRACK A FULL FIVE YEARS BEFORE THE DEADLINE CERTAINLY GIVES SUBSTANTIAL SUPPORT TO PUBLIC SUSPICIONS AND DISTRUST.

I EXPECT THAT THE MEMBERS OF THIS COMMITTEE ARE FULLY AWARE OF THE IMPACT OF VILLAGE TRIBAL SOVEREIGNTY AND TAX EXEMPTIONS IN PERPETUITY. IT IS OUR HOPE THAT NO BILL WILL PASS WHICH IN ANY WAY STRENGTHENS OR CREATES A PERMANENT RACIALLY DISCRIMINATORY SITUATION IN ALASKA. I BELIEVE THAT THE INTENT OF THOSE WHO CRAFTED THE 1971 SETTLEMENT WAS TO PREVENT THIS TYPE OF DISCRIMINATION AND I BELIEVE IT WAS THE CONDITION ON WHICH THE STATE PARTICIPATED IN THE SETTLEMENT.

REGARDLESS OF WHICH TECHNICAL OR SUBSTANTIVE AMENDMENTS TO ANCSA ARE FINALLY AGREED UPON, IT IS ABSOLUTELY IMPERATIVE THAT PRECISE LANGUAGE BE INSERTED WHICH PROVIDES A VIRTUAL GUARANTEE THAT VILLAGE TRIBAL SOVEREIGNTY IS NOT A DIRECT OR INDIRECT PRODUCT OF THESE AMENDMENTS. THE RIGHTS OF ALL ALASKANS MUST BE PROTECTED BY ADHERING TO THE BASIC PRINCIPLES OF THE ORIGINAL SETTLEMENT ACT. THE CREATING OF RACIALLY DEFINED INSTITUTIONS IS ABSOLUTELY UNACCEPTABLE.

ON BEHALF OF ALL CONCERNED ALASKANS, I SINCERELY REQUEST THAT THESE AMENDMENTS NOT BE TREATED LIGHTLY NOR IN HASTE. PLEASE GIVE US ALL A CHANCE TO FULLY EVALUATE THEIR IMPACTS AND VOICE OUR INDIVIDUAL OPINIONS. THIS IS MUCH MORE THAN JUST CORRECTIVE SURGERY TO THE ORIGINAL ACT. IT MAY WELL DETERMINE THE SOCIAL AND ECONOMIC FUTURE OF THE STATE OF ALASKA.

THANK YOU FOR THIS OPPORTUNITY TO PRESENT MY TESTIMONY.

RON SOMERVILLE

MEMORANDUM

DATE: August 22, 1985

TO: AVCP and Calista Corporations

FROM: Lare Aschenbrenner and Bob Anderson

RE: Draft legislation to implement A.F.N. Special Convention Resolution 35 and provide certain additional protections for Native land ownership, priority Subsistence rights and Tribal powers of self-government.

As you are aware the Draft legislation which is attached was developed in consultation with the 1991 Committees of the AVCP and Calista Corporation during this past summer. It originated, however at the conclusion of the AFN Convention last October when it became apparent that the eight AFN Resolutions, although necessary and appropriate, failed to cover a number of vital 1991 issues including protection of Native subsistence rights and tribal powers of self-government. In addition the AFN Resolutions failed to adequately protect Native land ownership in the case of Native Townsite, Municipal Corporation as well as IRA and Traditional Council lands. In early 1985 several attorneys familiar with the Alaska Native Claims Settlement Act and Indian Law issues formed a Working Group for the purpose of responding to widespread concerns voiced by the Native Community with respect to the gaps left by the eight AFN Resolutions. (This group was composed of private attorneys David Case and Lloyd Miller, Alaska Legal Services attorneys Robert Hickerson, Don Cooper, Jim Bamberger and Heather Grahame, and Bob Anderson and Lare Aschenbrenner of the Native American Rights Fund.)

The result of this effort (with certain omissions and modifications) became AFN Resolution 35 at the AFN Special Convention in March 1985. Although there is considerable disagreement as to what the convention intended, as you are aware Resolution 35 in its final written form was never formally adopted, but rather submitted "to the villages for their consideration and review" by AFN Resolution No. 8. AFN has since declined to draft legislation implementing Resolution 35 or apparently to give it any further consideration.

Our group of attorneys therefore proceeded to draft such legislation for the use of Native Village Councils and other organizations in their consideration of 1991 legislative options.

The initial draft was revised on a number of occasions, most recently following our meeting with your respective 1991 committees in Bethel. If further questions arise with respect to the meaning of the proposed legislation we will be pleased to respond.

Lare Aschenbrenner
Lare Aschenbrenner

Bob Anderson
Bob Anderson

Proposed Legislation - Discussion Draft - Revised 8/15/85

Congress finds and declares that --

(a) The Alaska Native Claims Settlement Act, Pub. L. 92-203, was intended to achieve a fair and just settlement of all aboriginal land claims of Alaska Natives in conformity with the real economic and social needs of Alaska Natives and with maximum participation by Natives in decisions affecting their rights and property;

(b) In 1971 Congress decided that the way to effectuate the settlement was through Alaska corporations that would receive land and money distributed under the settlement while providing for a transition period for the Alaska Natives;

(c) Implementation of the settlement has required adaptation to corporate structures foreign to Native culture;

d) Implementation of the settlement, especially the land selection process for Native corporations, was considerably more complex, expensive and time consuming than originally anticipated by Congress in 1971, with the consequence that the value of that settlement to the Alaska Native people was substantially diminished;

(e) The start-up costs for Native corporations formed under the settlement far exceeded Congress' estimate in 1971, further diminishing the value of that settlement to the Alaska Native people;

(f) The continued value of the settlement as a source of permanent benefit to future generations of Alaska Natives should not be jeopardized through taxation or other forms of involuntary disposition;

(g) The longstanding policy and moral obligation of the United States to the Native people of Alaska requires that those protections afforded to other Native Americans in the settlement of their just claims have equal application to the Native people in Alaska.

(h) To further the Federal Policies of Indian self-determination and Tribal self-government it is essential to remove all impediments to cooperation and mutual assistance between State and Tribal governments;

(i) The Alaska Native Claims Settlement Act was intended to settle Alaska Native Aboriginal Land Claims and was not intended to enlarge, diminish or in any way affect the scope of any governmental powers of Alaska Native Tribes;

(j) The Federal Policy of Tribal-self-determination would be furthered by affording Alaska Native Tribes the option of removing their lands from the protective coverage of the Indian Non-Intercourse act and in lieu thereof providing similar protections for Tribal ownership without the paternalistic supervision of the Congress and the Department of the Interior which the Non-Intecourse Act presently entails;

(k) Alaska Native Tribes should be afforded the same rights and privileges as Indian Tribes elsewhere in the United States;

(l) In order to reduce or eliminate costly and protracted litigation, further the Federal policies of Tribal self-government and self-determination and protect the priority subsistence rights of Alaska Natives, it is necessary to define the territorial jurisdiction of Alaska Native Tribes.

SPECIAL AFN RESOLUTION 84-35, Paragraphs 1, 2 and 3 provides:

1. No provisions of ANCSA should be construed as enlarging, diminishing or any way affecting the scope of any governmental powers of Alaska Native Tribal governments.

2. All inherent governmental powers and all provisions of the 1934 Indian Reorganization Act, as amended, which as of the date of passage of ANSCA, applied to Alaska Native Tribes (including groups of Indians, Eskimos or Aleuts), shall continue in full force and effect thereafter notwithstanding Section 704(a) of the Act of October 21, 1976 (which repealed Secretarial authority to proclaim new reservations).

3. No provision of ANCSA shall be construed as abridging in any way the governmental powers of Alaska Native Tribes, either over their members or over any areas of Indian Country (as defined in 18 U.S.C. 1151) within their respective jurisdictions.

Explanation

~~State officials have long contended that the passage of ANSCA somehow terminated or at least greatly reduced the governmental power of Alaska Native Tribes. The above three paragraphs would eliminate the State's contention.~~ With the exception of the provision reinstating secretarial authority to proclaim new reservations of Paragraph 2, all three of these paragraphs reaffirm the status quo of Tribal government as it existed prior to the enactment of ANCSA. ~~These provisions may be incorporated into ANCSA by adding a new paragraph following 43 U.S.C. 1601(c).~~

Proposed Legislation

~~Amend Section 1603 by adding the following subparagraph:~~

~~[illegible] No provision of this act shall be construed as enlarging, diminishing or in any way affecting the scope of any governmental powers of Alaska Native Tribal governments, including inherent governmental powers and powers exercised under the Indian Reorganization Act of 1934, as amended by the Act of May 1, 1936, nor as abridging in any way the governmental powers of Alaska Native Tribes either over their members or over any areas of Indian country as defined in 18 U.S.C. 1151 within their respective jurisdictions.~~

SPECIAL AFN RESOLUTION 84-35, Paragraph 4 provides:

> 4. No provision of ANSCA or any law shall be construed as in any way impairing the authority of the Secretary of the Interior, at the request of a Native Tribe, community or individual, pursuant to Section 5 of the Indian Reorganization Act of 1934, 25 U.S.C. 465 as amended, to acquire any interst in lands in Alaska in the name of the United States in trust for the benefit of the Native Tribe, community or individual for which the land is acquired.

Explanation

~~The Department of the Interior has taken the position that ANSCA revoked the Secretary's Authority to accept Alaska Native Tribal land in trust.~~ This paragraph reverses that interpetation and expressly reaffirms Secretarial authority to accept land in trust in Alaska. It also is related to the last clause of paragraph 2 of this resolution which would clarify the authority of the Secretary to establish new or add to existing Indian reservations in Alaska. These provisions may be incorporated into law by amending Sections 5 and 7 (25 U.S.C. 465 and 467) of the 1934 Indian Reorganization Act.

Proposed Statutory Language

Amend Section 465 by adding the following language after the word including and before the word "reservations" the following: "including" before the word "trust". As amended, the first paragraph of Section 465 would read as follows:

> The Secretary of the Interior is hereby authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including any lands within any state and any trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

Amend Section 467 to replace the period following the word "reservations" in the final proviso with a colon and add the following language:

> "PROVIDED FURTHER, that the provisions of this paragraph shall be fully applicable within any state notwithstanding the repeal of Section 2 of the Act of May 1, 1936 (49 Stat. 1250) in Section 74(a) of the act of October 21, 1976.

AFN SPECIAL RESOLUTION 84-26, Paragraph 4 provides:

> 4. As applied in Alaska, the term "dependent Indian community" as used in 18 U.S.C. 1151 shall include all areas within the traditional Tribal boundaries of those Alaska Native villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3) of 16 of ANCSA and shall also include all other Alaska Native communities. Such communities shall include all lands within their boundaries regardless of land ownership, including but not limited to all townsite lands, allotments, village corporation lands, restricted townsite lots, core townships, municipal lands and private lands.

Explanation

Healy Lake Village

This provision is intended to clarify the meaning of "dependent Indian community" in Alaska for purposes of determining the scope and extent of Native Tribal powers. In broadest terms, it ties a "dependent Indian community" to the "traditional Tribal boundaries" of all Alaska Native villages entitled to lands under various provisions of ANCSA. It also includes the traditional Tribal boundaries of "all other Alaska Native communities", thereby including such places as Wrangell and Petersburg, which were not defined as villages in ANCSA. In reciting the villages eligible for ANCSA benfits, however, it omits villages which elected to take lands under Section 19. Although these villages are also included within Section 11, in order to eliminate any doubt, Section 19 is specifically included in describing the lands of the villages which are to be considered Indian Country. An amendment to 18 U.S.C. 1151 is the most logical way to incorporate this provision into law.

Proposed Statutory Language

Amend 18 U.S.C. 1151 by adding after the comma following the word "state" in clause (b) the following: "including in Alaska all townsite lands, allotments, village corporation lands, restricted townsite lots, core townships, municipal lands and private lands within the traditional boundaries of those Alaska Native villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92-203) and such lands within the traditional boundaries of all other Alaska Native communities". As amended, the revised statute would read as follows:

> Except as otherwise provided in Sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means . . .(b) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, including in Alaska all lands within the traditional boundaries of those Alaska Native villages made eligible for certain benefits pursuant to sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement act (P.L. 92-203), and all lands within the traditional boundaries of all other Alaska Native communities including, without limitation in both categories, all townsite lands, allotments, village and regional corporation lands, restricted townsite lots, core townships, municipal lands and private lands, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

SPECIAL AFN RESOLUTION 84-35, Paragraph 5 provides:

> 5. In addition to any other provision for the protection of Native lands, Alaska Native Tribes shall have the option of retaining land in complete Tribal governmental ownership and control, to be held in trust for the benefit of Tribal members subject to such protections as the Tribe deems appropriate, including tax exemptions and freedom from execution for payment of debts.

Explanation

This paragraph contemplates something similar to the traditional trust protections without placing legal title in the United States. Instead, any protections and restrictions which may apply are selected by the Tribe, which holds fee simple title. The fact that land is owned in fee simple by a Tribe makes the Non-Intercourse Act, 25 U.S.C. section 177, applicable, so that conveyance may not occur without congressional approval. Accordingly, it is necessary to waive those protections and limitations for Tribes to have complete freedom to choose the terms under which their land is held. Governments wishing to hold land in fee with the substantial protections of that act, however, should not automatically lose such protections.

The IRA would be amended to include section 476a which will give Native governments the freedom to waive application of 25 U.S.C. section 177, and select, through general election, the terms under which its land is held. To further the idea that the Tribe holds land in trust for its members, alienation of Tribal lands would require approval by two-thirds of all members authorized to vote in Tribal elections.

Proposed Statutory Language

Add a new section to the Indian Reorganization Act 25 U.S.C. section 476a, as follows:

> Lands acquired by Alaska Native Tribes in villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92-203) may be removed from the protection of the Indian Non-Intercourse Act, 25 U.S.C. section 177, upon affirmative vote of two-thirds of those eligible to vote in tribal elections. The election shall be called and monitored by the Secretary of the Interior within 60 days of a request by the governing body of the Tribe or upon a petition signed by one-third of those eligible to vote in tribal elections. Upon certification by the Secretary of the Interior of the affirmative results of such election the Native Tribe shall hold such land in

fee simple. Land held in fee simple by the Tribe may not be alienated absent approval by two-thirds of those eligible to vote in Tribal elections. The ballot removing application of the non-intercourse act may include protections desired to preserve the land for the use and benefit of Tribal members. Such protections may include: (1) freedom from execution on any judgment rendered against the Tribe; (2) freedom from real property taxes by the State of Alaska, or any political subdivision of the State; and (3) immunity from adverse posession and similar claims based upon legal theories of estoppel or the passage of time.

SPECIAL AFN, Resolution 35, Paragraphs 6 and 7 provide:

> 6. All land conveyed to a village or urban corporation, group, or Native individual pursuant to the Alaska Native Claims Settlement Act shall be exempt from all forms of state or local taxation, from condemnation by State or local authorities, from any claims of adverse possession or other claims based upon the passage of time, and from any form of judgment execution.
>
> 7. All income earned, or dividends distributed from the income earned, either from the development of lands conveyed to a village or urban corporation, group, or Native individual pursuant to ANCSA, or from the investment of funds paid under ANCSA, shall be exempt from all forms of State or local taxation and all forms of State or local taxation [sic] and all forms of judgment execution.

Explanation

Both provisions relate to issues of tax immunity, and the core concept behind each provision is borrowed from the ordinary state of affairs involving Indian property in which neither the property nor income earned from such property may be taxed. ANCSA provides immunity from taxation for corporate lands for twenty years if the lands are not developed or leased to third parties.

ANCSA § 21(d), 43 U.S.C.A. § 1620(d) currently deals specifically with the taxation of real property interests conveyed under ANCSA, and also sets forth the 20-year exemption period for undeveloped lands. Since the provisions quoted above would in essence replace the limited property tax exemptions set forth in § 21(d), it would seem most appropriate to implement these provisions by repealing all of existing § 21(d) and placing in lieu thereof the following language.

Proposed Language

ANCSA Section 21(d), 43 U.S.C. 1620(d) is amended to read as follows:

(1) All lands and interests therein conveyed, pursuant to this chapter, to a Native individual, Native Tribe, Native Group, Village or Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title shall be entitled from the date of conveyance to immunity from—

(A) adverse possession and similar claims based upon legal theories of estoppel or the passage of time;

(B) real property taxes by the United States, the State of Alaska, or any political subdivision of the State;

(C) judgment resulting from any claim based upon the laws of bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally;

(D) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native individual, Corporation or Native Group or any officer, director or stockholder of any such Corporation or Group; and

(E) condemnation by the United States, the State of Alaska, or any political subdivision of the State; Provided, That the immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such land or interest therein may be entitled under the Alaska National Interest Lands Conservation Act.

(2) All land and interest therein conveyed, pursuant to this chapter, to a Native individual, Native Group, village or Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title, and all income earned or dividends distributed from income derived from such real property interests (including all rents, royalties, profits and other revenues or proceeds derived from such property interest) shall be exempt from all forms of federal, state and local taxation until such time as such land and interests therein are no longer owned by Native individuals, Native Tribes, Native Groups or Native Corporations.

(3) All income earned or dividends distributed from income earned on funds distributed to a Native individual, Native Tribes, Native Group, Village or Regional Corporation or corporation established pursuant to section 1613(h)(3) of this chapter shall be exempt from all forms of federal, state and local taxation.

(4) "Native Tribe" means all Alaska Native Villages made eligible for certain benefits pursuant to Section 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92.203).

SPECIAL AFN, Resolution No. 35, Paragraph 8 provides:

> 8. All dividends distributed by an ANCSA corporation to a Native shareholder, and all other forms of compensation or benefits received by a Native under ANCSA, shall be disregraded in determining the eligibility of that shareholder or the shareholder's household for assistance under the Food Stamp Program, the Social Security Act, or other state, federal, or federally-assisted programs.

Explanation

Subsection (b) of section 29, 43 U.S.C. 1626(b), sets forth the specific rule regarding the Food Stamp program, directing that "any compensation, remuneration, revenue or other benefit received by any member of such household under this chapter shall be disregarded" in determining that household's eligibility to participate in the Food Stamp Program. Although this language is unobjectionable, the language of Clause 8 of Resolution No. 35 suggests that this subsection should be enlarged specifically to refer to other governmental programs as well. Accordingly, it is recommended that ANCSA S 29, 43 U.S.C. 1626, be amended.

Proposed Legislations

ANCSA Section 29(b) 43 U.S.C. 1626(b) is amended to read as follows:

(b) In determining the eligibility of any household or individual Native to participate in the Food Stamp Program, assistance under the Social Security Act, or financial assistance or other benefits available under any other Federal or federally assisted program otherwise available to the Native people of Alaska as citizens of the United States and of the State of Alaska, any compensation, remuneration, revenue, dividend, stock, land, or other benefit received by

> any household or any member of such household under this chapter, including any dividend or land received from such individual's Native Corporation or Native Group organized under this chapter, shall be disregarded and shall not be considered as a resource or otherwise utilized as a basis for making such determinations.

(Note that the Distribution of Judgment Funds Act, 25 U.S.C. 1401 et. seq. as amended in 1983, provides a similar exemption: "Interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance under the Social Security Act or any other federal or federally-assisted program". 25 U.S.C. 1408.)

SPECIAL AFN RESOLUTION 84-35, Paragraph 9 provides:

> 9. Alaska Native Tribes shall retain complete jurisdiction to regulate hunting and fishing by all persons within those areas traditionally used by Tribal members for subsistence hunting and fishing. The State of Alaska shall only have jurisdiction over rural Native subsistence hunting and fishing in so far as necessary to conserve species of fish and wildlife.

Explanation

This paragraph is designed to clarify the authority of Alaskan Tribal governments to regulate subsistence hunting and fishing. Since the authority of Tribal governments in this regard is unclear at this time, this amendment may actually expand those powers.

Placing the amendment is somewhat difficult. An amendment could be made to either ANCSA or Title VIII of ANILCA. Although a reasonable argument could be made that the amendment should be placed in Title VIII, the better view is that it should be placed in ANCSA. The amendment relates to retained sovereignty over those hunting and fishing rights extinguished by ANCSA. Title VIII of ANILCA is concerned with a transfer of fish and wildlife management from the federal government to the state government and a user preference for "rural residents". That title mentions neither Native sovereignty, village or regional corporation land, nor Native hunting and fishing rights. Since ANCSA at least deals with Native hunting and fishing rights as well as village and regional corporation land, the amendment is better placed in ANCSA.

The best resting place for the amendment appears to be ANCSA's "Miscellaneous Provisions" section. 43 U.S.C. § 1621. Placed here, the amendment can be read as recognizing that Tribal governments have exclusive jurisdiction to regulate hunting and fishing in areas used by their Tribal members for those lands transferred under ANCSA to village and regional corporations.

REVISION OF 43 U.S.C. § 1621

Proposed Legislation

Amend § 1621 of the Alaska Native Claims Settlement Act by adding the following language:

> (m) Notwithstanding any provision of this Act or any other law, Alaska Native Tribes shall retain exclusive jurisdiction to regulate hunting, fishing and trapping in Indian Country; including lands transferred to Village or Regional Corporations pursuant to this Act. Provided: that the State or the Federal Government may assume jurisdiction over such hunting, fishing, and trapping if necessary to conserve, in a given geographic area, a species of fish or wildlife which is endangered or is in imminent danger of becoming endangered. Rules and regulations promulgated pursuant to this authority shall be limited to those necessary to ensure that the species does not become extinct or endangered.

SPECIAL AFN, Resolution No. 35, Paragraph 10

10. The secretary of [the] Interior shall be directed to undertake a comprehensive audit to determine the extent to which funds distributed to the Alaska native Fund were expended by ANCSA Corporations in the form of costs of litigation relating to the implementation of ANCSA and start-up costs, including the cost of organizing ANCSA Corporations and implementing the provisions of ANCSA. Congress shall thereafter appropriate funds, together with interest, sufficient to reimburse such corporations for such costs.

Explanation:

This provision of Resolution No. 35 seeks to restore to Alaska Natives the full value of the settlement negotiated in 1971. The clause reflects a widely-held perception that due to the complexity of the Settlement Act, the ambiguities in the Act left unresolved by Congress, and the particularly severe "start-up" costs incurred by the ANCSA corporations in adapting a rural subsistence based Native culture to corporate forms, substantial portions of the settlement were lost. The clause also reflects an understanding that Congress never anticipated that these costs would be paid out of the Alaska Native Fund (or income generated from ANCSA land), and had not intended for the value of the settlement to be burdened by such costs.

In order to implement this provision of Resolution No. 35 it will be necessary to add a new section to ANCSA.

Proposed Legislation

Add a new section to 43 U.S.C. 1601 et seq. as follows: The Secretary of the Interior shall, within two years from the date hereof and in consultation with each Native group or corporation organized pursuant to this Act, complete a comprehensive audit of all funds distributed pursuant to this Act to Native groups, Village or Regional corporations, or corporations organized pursuant to section 14(h)(3) of this Act, solely for the purpose of identifying what portion of such funds were expended by each such group or corporation (1) in establishing its entitlement to receive land under this Act, (2) in making (or seeking to make) its selection and securing (or seeking to secure) conveyance of lands under this Act, and (3) in securing (or seeking to secure) its entitlement to revenues under this Act, expressly including, but not limited to revenues under sections 7(i) or 7(j) of this Act. Within two years from the date hereof the Secretary shall submit to the congress a report setting forth the results of his audit and, for each Native group or corporation referred to herein, specifying the sums, if any, identified pursuant to this subsection. These sums shall then be paid, together with interest payable on such sums from the date of expenditure by the corporation or group to the date of payment to the corporation or group, Provided, That interest shall be paid on the basis of a semi-annual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment, And provided further, That moneys for such payments have been appropriated by Congress. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

In large part the language in the second half of this section is borrowed from language already used by Congress in an earlier provision of ANSCA dealing with the escrow of revenues generated from ANSCA lands prior to conveyance. See Act of January 2, 1976, §2, 89 Stat. 1146, as amended, 43 U.S.C. 1613 note.

SPECIAL AFN RESOLUTION 84-35, Paragraph 11 provides:

> 11. Lands subject to reconveyance under ANSCA 14(c)(3) shall be available for reconveyance to Alaska Native Tribal entities. Townsite trustee lands shall also be reconveyed to the appropriate Alaska Native Tribal entity.

Explanation

In order to make 14(c)(3) lands available for reconveyance to Alaska Native Tribes, we propose an amendment to 43 U.S.C. § 1613(c)(3). The amendment, in effect, creates something like a right of first refusal in favor of village Tribal governments. We also include here an amendment to 43 U.S.C. § 1613(c)(4) which provides a similar scheme for airports and adjacent lands.

When Tribal governments receive these lands it will be important that the Tribes have a voice in resource development questions. To accommodate this need, we propose an amendment to 43 U.S.C. § 1613(f) which will require Tribal consent for subsurface development by Regional Corporations.

REVISION OF 43 U.S.C. § 1613(c)(3)

Proposed Legislation

> Amend 43 U.S.C. 1613(c)(3) as follows: (3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other forseeable community needs: Provided That upon request of the local Native Tribe, the Village Corporation shall convey to the Native Tribe or to the United States in trust for the Native Tribe title to the surface estate in those lands that would, by operation of this section, otherwise be transferred to the Municipal Corporation or to the State in trust for any Municipal Corporation established in the Native

village in the future; Provided further, That the amount of lands to be transferred to the Municipal Corporation or in trust, or directly to the Native Tribe shall be no less than 1,280 acres unless the Village Corporation, [and] the Municipal Corporation or, the State in trust, or the Native Tribe, or the United States in trust for the Native Tribe, can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorizations for such purposes, and: Provided further, that where the land is transferred to the Secretary in trust for a Native Tribe, or directly to the Native Tribe the requirement that revenues derived from the sale of surface resources harvested or extracted from lands be paid to the Village Corporation shall not apply.

(4) the Village Corporation shall convey to the Federal Government, State, [or to the appropriate] Municipal Corporation, or, upon request of the local Native Tribe, to the United States in trust for that Native Tribe, or directly to the Native Tribe, title to the surface estate for existing airport sites, airway beacons, and other navigation aids, together with such additional acreage and/or easements as are necessary to provide related services and to insure safe approaches to airport runways;

REVISION OF 43 U.S.C. § 1613(f)

Proposed Legislation

Amend 43 U.S.C. 1613(f)(3) as follows: (f) PATENTS TO VILLAGE CORPORATIONS FOR SURFACE ESTATES AND TO REGIONAL CORPORATIONS FOR SUBSURFACE ESTATES; EXCEPTED LANDS: MINERAL RIGHTS, CONSENT OF NATIVE TRIBE AND VILLAGE CORPORATIONS. When the Secretary issues a patent to a Village Corporation for the surface estate in land pursuant to subsections (a) and (b), he shall issue to the Regional Corporation for the region in which the lands are located a patent to the subsurface estate in such lands, except lands located in the

> National Wildlife Refuge System and lands withdrawn or reserved for national defense purposes, including Naval Petroleum Reserve Numbered 4, for which in lieu rights are provided for in subsection 12(a)(1): Provided, that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native Village shall be subject to the consent of the [Village Corporation] local Native Tribe where that Native Tribe is the owner of said lands. As to all other lands in the Native village, consent of the Village Corporation shall be required.

TOWNSITE LANDS

Explanation

Under present law, Native townsite lands which were unoccupied as of October 21, 1976 (the date on which the Townsite Acts were repealed) whether subdivided (Klawock v. Gustafson) or not (Aleknagik Natives Ltd. v. Hodel), are to be transferred to the municipal government for the village in which the townsite lands are located. Paragraph 11 of Special AFN Resolution 84-35 directs that these lands are to be transferred to "the appropriate Native Tribal entity". The proposed new section 739 of Title 43 accomplishes this purpose. First, for those communities for which no municipal corporation exists (e.g., Port Graham) or is not presently functioning (Akiachak), the local Tribal governments may have that land transferred to the United States in trust for them, or obtain it in fee. Second, for those villages which have functioning municipal governments, this section allows those governments to decline the transfer of townsite lands from the townsite trustee. In such a case, the local Tribal government will be allowed to have the land transferred to the United States in trust for it, or to the Tribe in fee.

Proposed Legislation

> Add a new section 43 U.S.C. § 739 entitled: Transfer of Unoccupied Townsite Lands in Unincorporated Villages.
>
> Notwithstanding section 703(a) of the Act of October 21, 1976, Pub. L. 94-579, 90 Stat. 2789, lands remaining unoccupied as of October 21, 1976 in a townsite established pursuant to section 3 of the Act of May 25, 1926, Ch. 379, 44 Stat. 629 (formerly codified at 43 U.S.C. § 735), whether subdivided or not, shall, at the request of the local Native Tribe for the village in which such townsite lands are located, be transferred to the United States in trust

for said Native Tribe or to said Native Tribe in fee, provided that no Municipal Corporation organized under the laws of the State of Alaska has been established or is presently functioning in the village in which such townsite lands are located: Provided further, that where a Municipal Corporation organized under the laws of the State of Alaska has been established and is presently functioning in the village in which the unoccupied townsite lands are located, and where said Municipal Corporation declines to accept transfer of the unoccupied townsite lands, such lands shall, at the request of the local Native Tribe for the village in which the townsite lands are located, be transferred to the United States in trust for said Native Tribe or to such Tribe in fee.

SPECIAL AFN RESOLUTION '84-35, Paragraph 12 provides:

12. Notwithstanding any provision of the State of Alaska's constitution or laws, the State of Alaska may negotiate and enter into intergovernmental compacts with Alaskan Tribes for any lawful purpose and may enact legislation specially directed to Alaskan Tribes and their members.

Explanation

The State of Alaska contends that it would violate the Equal protection, Public purpose and Local Government provisions of the Alaska Constitution for the State to deal with Native Tribal Governments on a Government to Government basis or single out Tribes or their members for special treatment. The Proposed legislation would eliminate the grounds upon which this contention is based. The legislation would expressly authorize the special treatment of Alaskan Natives and therefore, under the Supremacy clause of the federal constitution would override the State's contrary position.

Proposed Legislation

25 U.S.C. § 476 is amended by the addition of the following subparagraph:

> (i) Notwithstanding any provision of the constitution of the State of Alaska, the State may negotiate and enter into intergovernmental Agreements with Alaska Native Tribes and single out such Tribes or their members for special treatment for any lawful purpose. The term 'Alaska Native Tribe' includes all Alaska Native Villages made eligible for certain benefits pursuant to Sections 11, 14(h)(2), 14(h)(3), 16 or 19 of the Alaska Native Claims Settlement Act (P.L. 92-203).

Senator WALLOP. Thank you. Dr. Harbo, would you want to give me a summary of your intended remarks?

Mr. HARBO. For the Alaska Outdoor Council?

Senator WALLOP. Yes.

Mr. HARBO. Okay.

STATEMENT OF SAMUEL J. HARBO, JR., INTERIOR VICE PRESIDENT, ALASKA OUTDOOR COUNCIL

Mr. HARBO. One of the points—and I'll just speak extemporaneously rather than reading it. One of the points we need to consider is that ANCSA is the aboriginal land claims settlement and the settlement of hunting and fishing rights.

In ANCSA, the original ANCSA, there were essentially barriers placed to recognizing a trust relationship, to recognizing tribal status, and to recognizing Indian Country; the three attributes necessary for sovereignty. The amendments completely remove those obstacles.

So we have got a basic change in the posture of ANCSA with respect to sovereignty once the amendments are adopted.

Furthermore, we need to keep in mind that we're talking about the Land Settlement Act. The existence of a trust relationship or tribal recognition in other legislation, such as the Indian Tribal Welfare Act, and Indian liquor laws, is very different than having obstacles that deny sovereignty in the Land Settlement Act. That's the basic point that I wanted to make for the Alaska Outdoor Council.

Senator WALLOP. Okay, Dr. Harbo. I apologize for the confusion over the time allotment. It's not Senator Murkowski's fault, but my arbitrariness up here when I'm trying to keep it going for the afternoon. I appreciate your understanding.

Mr. HARBO. I appreciate the opportunity, again. Thank you.

[The prepared statement of Mr. Harbo follows:]

Hearing
U.S. Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation.
S 2065 -- Alaska Native Claims Settlement Act Amendments.
May 24, 1986, Federal Building, Fairbanks, Alaska.

Testimony of:
Dr. Samuel J. Harbo, Jr.
Box 80522
College, Alaska 99708
for the Interior Region, Alaska Fish and Wildlife Federation and Outdoor Council.

My name is Sam Harbo. I am Interior Vice-president for the Alaska Outdoor Council, a federation of over 40 clubs, with a total membership of over 9,000 Alaskans. I am testifying on behalf of the Interior Region of the Alaska Outdoor Council.

The amendments contained in S 2065 are not just technical amendments to the Alaska Native Claims Settlement Act (ANCSA). Rather, they are substantive revisions that change the original intent and essence of ANCSA. Contrary to what several of Alaska's Congressional delegation have been telling us, the amendments relate directly to native village sovereignty. That aspect cannot be ignored when considering the amendments, because the attainment of village sovereignty would have profound effects on all Alaskans, both native and non-native. Because of the over-riding importance of the sovereignty issue, I am restricting my testimony soley to the amendments's relationship to that topic.

Some of the provisions in S 2065 reverse the posture of ANCSA regarding tribal sovereignty from "obstruction of" to "facilitation of". Because ANCSA is the legislation that settled the aboriginal claims to land, and to hunting and fishing rights in Alaska, such a change in posture is of paramount importance and of overwhelming consequences.

In Attachment A, I present a diagram showing what is necessary before sovereignty over some geographic area can occur. I then individually consider the three attributes needed for sovereignty -- trust relationship, tribal status, and Indian Country -- and show how the amendments change the initial posture of ANCSA to each of those attributes. The amendments reverse the posture toward all three. The obstructions to sovereignty that Congress initially placed in ANCSA essentially would be removed by S 2065. Obviously, such amendments are not just "technical" in nature.

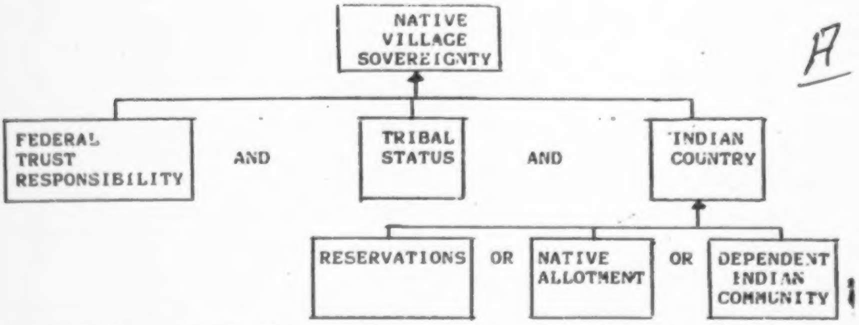
A significant point needs to be re-emphasized -- ANCSA is the settlement to aboriginal claims to land, and to hunting and fishing rights. Consequently, provisions in the basic land settlement act that deny a trust relationship, tribal status, and Indian Country designation are restrictions that effectively block establishment of native sovereignty over a geographic area -- regardless of the presence in other laws (such as Indian liquor laws) of a trust relationship or of tribal recognition.

The provisions in S 2065 that remove the prohibitions to sovereignty will affect all Alaskans. Hence, all Alaskans need an adequate opportunity to be heard. In addition, the importance of this legislation requires that adequate deliberation occur. We request that this legislation be taken off the fast track suggested by Senator Stevens. We request that passage of S 2065 be delayed until next year so that adequate input and deliberation are ensured.

We believe the native community in Alaska has some justifiable concerns that must be addressed by 1991. We also believe that amendments addressing those concerns should not lead to tribal sovereignty in Alaska. If the needed amendments could lead to judicial uncertainty regarding Congress's intent, specific language should be inserted that prohibits sovereignty.

Thank you for the opportunity to present this testimony.

A


NATIVE VILLAGE SOVEREIGNTY
FEDERAL TRUST RESPONSIBILITY
AND
TRIBAL STATUS
AND
INDIAN COUNTRY
RESERVATIONS
OR
NATIVE ALLOTMENT
OR
DEPENDENT INDIAN COMMUNITY

Note: All three attributes -- federal trust responsibility, tribal status and Indian Country -- are needed before native sovereignty over some geographic area can be achieved.

STATUS OF THE THREE ATTRIBUTES

	ANCSA WITHOUT 1991 AMENDS	ANCSA WITH 1991 AMENDS
FEDERAL TRUST RESPONSIBILITY	-no trust responsibility under ANCSA. -treats Alaskan natives as citizens of U.S. and Alaska, with corresponding rights and obligations.	-creates trust responsibility in Sec. 1f. -treats Alaskan natives as Native Americans, with "rights, priviliges and immunities" thereof (see Sec. 7c).
TRIBAL STATUS	-no tribal recognition. All emphasis on state corporations, with non-natives able to be stockholders after 1991. -intent not to establish "racially defined institutions". -intent not to create "lengthy wardship or trusteeship".	-asserts that ANCSA does not change the "scope of any governmental authority of a federally recognized tribe ...organized pursuant to the Indian Reorganization Act" (see Sec. 7c). In effect, undoes the original prohibitions against "racially defined institutions" and "lengthy wardship or trusteeship". -allows corporations to transfer assets to another entity of only native members; the members' interests are not transferable (see Sec. 7a). The implications for tribal recognition are strong.
INDIAN COUNTRY	-land given to corporations under state law, with non-natives eligible for corporate stock after 1991. Obviously, lands were not placed in trust for a tribe -- i.e. no Indian Country.	-corporate lands could be transfered to a native-only entity, which probably would be a tribal council. No further transfer or sale would be possible. Land would be in communal, fee simple ownership. -such provisions imply that the land is held in trust for the native entity. Indian Country designation likely would result.

SUMMARY: The intent of ANCSA is exceedingly important, for ANCSA is the legislation that settled in Alaska the aboriginal claims to lands and other rights.

Without the amendments, ANCSA clearly does not establish a trust relationship, tribal status or Indian Country.

With the amendments, the barriers in ANCSA to the trust relationship, to tribal status and to Indian Country desigation essentially are removed.

The argument that the 1991 amendments are neutral with respect to sovereignty clearly is vacuous and without merit.

Senator WALLOP. Ms. Reeves.

STATEMENT OF WYN M. REEVES, ON BEHALF OF THE ALASKA BOW HUNTERS ASSOCIATION

Ms. REEVES. My name is Wyn Reeves. Thank you. I represent Alaska Bow Hunters. I'm here to oppose the rushing of the 1991 amendments to ANCSA and the opening up of the possibilities of change in the intent of the entire Act.

I believe that these amendments must be studied for the possibilities they open and looked at by all Alaskans.

I support further education of the people these amendments effect—that is, all Alaskans, and the participation of these people to decide on the amendments that have a potential of changing the entire spirit of Alaska.

I also feel we should have another opportunity to come before you with our testimony at that time after that education has taken place. I don't think people really understand what's going on.

Looking over ANCSA, I feel the original intent was not to provide an opportunity for separateness. It guaranteed the rights of each individual in Alaska. The 1991 amendments appear to open up opportunities to change the intent of ANCSA, and I believe the intent should be allowed to remain intact.

I do not oppose amendments if they have been found to be necessary. However, I do oppose amendments that threaten the original intent of that Act.

I support amendments that settle differences, difficulties and problems. I cannot support amendments that only create and enhance differences among people that it's designed to help.

In conclusion, I'm requesting more time to look at the amendments and redesigning the amendments to prevent a change in the intent of ANCSA.

Thank you.

[The prepared statement of Ms. Reeves follows:]

May 24, 1986

Senators Wallop and Murkowski:

I am here to oppose the rushing of the 1991 Ammendments to ANSCA and the opening of possibilities to change the intent of the entire Act.

When I heard about the ammendments and began to look over the different sections, I was struck with the potential of the wording. I found it frighting that such seemingly inocent ammendments could open up the possibilities of complete divisivness within the State of Alaska. I believe that these ammendments must be exposed for the possibilities they open and looked at by all Alaskans.

I support further education of the people these ammendments affect and the participation of these people to decide on the ammendments that have the potential of changing the entire spirit of Alaska. I also feel that we should have the opportunity to come before you with our testimony at that time.

Looking over ANSCA I feel the intent was not to provide opportunity for seperateness. I feel it guaranted the rights of each individual in Alaska. The 1991 Ammendments appear to open up opportunities to change the intent of ANSCA and I feel the intent should be allowed to remain intact. I do not oppose ammendments if they have been found necessary. However, I do oppose ammendments that threaten the conclusion of that act.

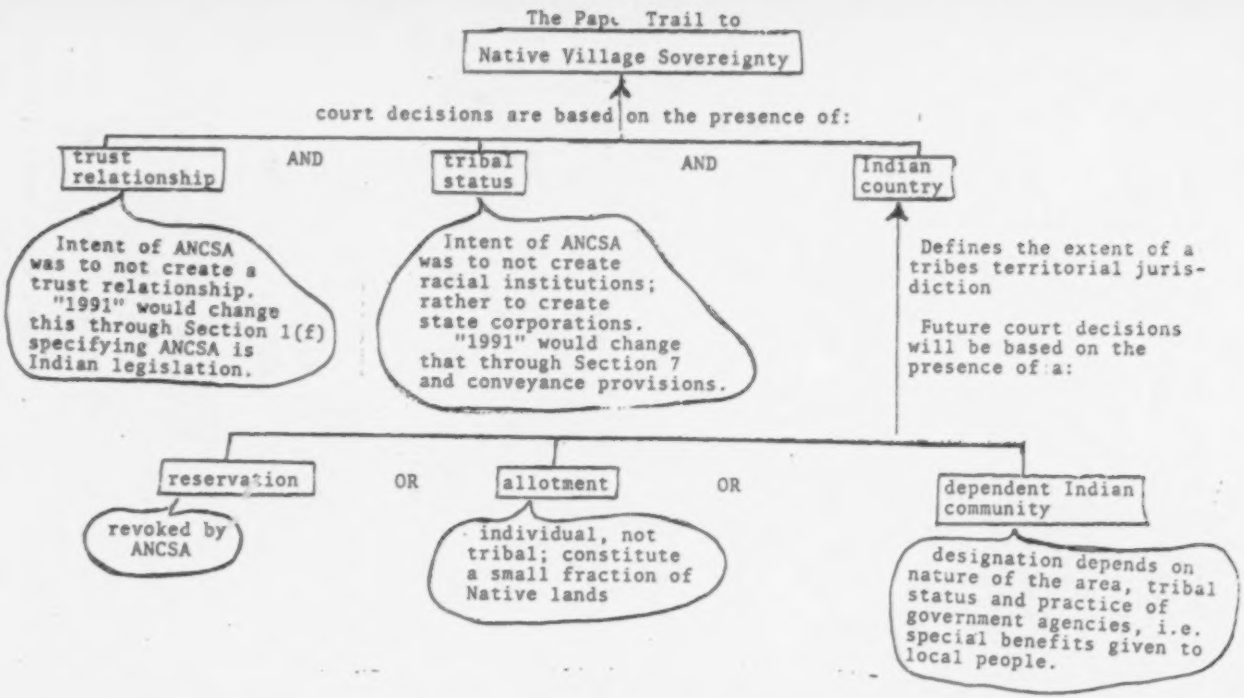
I feel the issue of sovereignty should be dealt with prior to these ammendments.

I support ammendments that settle difficulties, differences, and problems. I can not support these ammendments that only create and enhance differences amoung the people it is designed to help.

In conclusion, I am requesting more time to look at the ammendments and redesigning the ammendments to prevent a change in the intent of ANSCA.

Wyn M. Reeves
1070 Northwood Ln.
Fairbanks, Alaska 99712
907-457-2514

The Pap. Trail to Native Village Sovereignty



court decisions are based on the presence of:

trust relationship AND tribal status AND Indian country

Intent of ANCSA was to not create a trust relationship.
"1991" would change this through Section 1(f) specifying ANCSA is Indian legislation.

Intent of ANCSA was to not create racial institutions; rather to create state corporations.
"1991" would change that through Section 7 and conveyance provisions.

Defines the extent of a tribes territorial jurisdiction

Future court decisions will be based on the presence of a:

reservation OR allotment OR dependent Indian community

revoked by ANCSA

individual, not tribal; constitute a small fraction of Native lands

designation depends on nature of the area, tribal status and practice of government agencies, i.e. special benefits given to local people.

Alaska Natives have justifiable concerns regarding loss of control over their corporate lands. Perhaps the alienation and conveyance provisions in the amendments are warranted, but they should not create wholesale problems for everyone else.

Obviously, Congress did not originally intend that ANCSA lands should be treated as "Indian country." After all, Congress provided that the stock could be sold to non-Natives and thereby non-Natives would be part-owners in the corporate lands.

Any option which allows the restriction of land ownership to only Natives has tremendous implications for "Indian country" and may set the stage for sovereignty.

If the alienation and conveyance provisions of the 1991 amendments are enacted, a very clear statement must be included that such provisions will not create "Indian country" in Alaska.

documentation available on request
...S.Harbo/M.Bishop 4/13/86
(907)457-7815 or 455-6151

Senator WALLOP. Thank you very much.
Mr. Haley.

STATEMENT OF BYRON HALEY, PRESIDENT, CHITINA DIPNETTERS ASSOCIATION

Mr. HALEY. Senator Wallop and Senator Murkowski, I thank you for coming to our city to hear our testimony.

I am Byron Haley from 1002 Pioneer Road, Fairbanks, Alaska; a 38-year resident of Fairbanks. I am President of the Chitina Dipnetters Association and also have membership in the following organizations: Tanana Valley Sportsmen's Association, Alaska Outdoor Council, and I am Secretary to the Fairbanks Advisory Committee to the Boards of Fish and Game, and also have membership in the Alaska Trappers Association.

I am representing the Chitina Dipnetters and myself at this hearing. The Chitina Dipnetters Association has a membership of about 500.

We are strongly against S.B. 2065 and H.B. 4162, which I will refer to as the 1991 amendments, as that is what most Alaskans are familiar with.

The Alaska delegation to the U.S. Congress is claiming that the 1991 amendments have nothing to do with sovereignty. We disagree with their beliefs especially with Sentor Stevens. After what he did to us on Title 8 of ANILCA, I will not believe anything he says on matters that is questionable, especially in regard to the ANCSA amendments. He told us one thing before and did another. When he tells a candidate for Governor of the State of Alaska that he will not take any more of this, quote, "crap" on the 1991 amendments, it really gets me to wondering what he is trying to put one over us again.

I really get to checking things and lo and behold up comes Section 7 in the 1991 amendments; which from very good authority, that it is carefully planned by the Native community's attorneys to help achieve sovereignty. The amendments are very dangerous in that respect.

The amendments would allow each of the privately-owned regional corporations to transfer land holdings of corporations to the IRA tribal government, the advocate of tribal sovereignty. The amendments would make a major change in ANCSA.

The purpose of ANCSA when first passed was to settle all Native claims in Alaska. It extinguished all reservation lands with the exception of one. It was to avoid creating a reservation system or any racially-defined rights or privileges. In one act in 1991, the transfer of lands to IRA, councils would create tribal sovereignty. To believe otherwise, in one of the words of Senator Stevens used, quote, "is a bunch of crap".

The 1991 amendments introduced by the Alaska delegation to amend ANCSA would very much alter the intent of the original Act of full settlement of all Alaska Native claims. Their amendment instead would support Alaska Native claims to tribal sovereignty. Anything that remotely refers to sovereignty should be deleted from any amendments or bills.

The State of Alaska would be torn apart if tribal sovereignty is allowed to take place in the State now or in the future.

A lot of things the attorneys of the Alaska Native community are doing is making a paper trail for tribal sovereignty. So as years later they can refer back to such and such part of an amendment referring to tribal sovereignty. A judge will agree with them because of the paper trail that was laid and carefully planned by Native community attorneys.

Don't let them pull the wool over your eyes, as they seem to have done with Senator Stevens. Do not pass this amendment in its present form. Section 7 and the sections that would allow lands to go to Native councils should be deleted, and maybe some other sections.

I thank you. That concludes my testimony.

Senator **Wallop**. Thank you, Mr. Haley. Mr. Nova.

STATEMENT OF JOE NAVA

Mr. **Nava**. Before I start, may I correct my name for the record? My name is Nava, N-a-v-a.

Senator **Wallop**. N-a-v-a. I'm sorry.

Mr. **Nava**. That's not your error, I'm sure.

Senator **Wallop**. It's one of the first that hasn't been.

Mr. **Nava**. It's an often-made error. I speak to you today as an individual Alaskan, even though I'm a member of the Board of Directors of the National Rifle Association.

We have, as a Board, passed a resolution which has been given to the officers of the Association, and I'm sure the Acting Executive Vice President, Warren Cassidy, and the Acting Head of the Institute for Legislative Action, Wayne Lapierre, will be presenting the National Rifle Association's view to you in Washington. They are only concerned with that part of these amendments that affect hunting. I'd like to make that point clearly. They are not concerned with issues such as taxation of land, but only those issues which will affect the management of renewable natural resources and hunting for our 3 million members.

As an individual Alaskan today, a 26-year long Alaskan who has raised my family here, I would like to speak in opposition to these 1991 amendments.

Specifically on the issue of sovereignty, Section 7(c). I believe that this section must be deleted. It is clear to me it is a move toward the achievement of sovereignty for the Native villages.

The 1991 amendments are not neutral in the issue of sovereignty. That is probably the most often-repeated falsehood of the decade.

The truth is that ANCSA was not neutral about sovereignty. It closed the doorway to sovereignty on purpose.

The 1991 amendments are a step toward sovereignty because they would go back and erase the effects of ANCSA and make ANCSA neutral with respect to sovereignty.

That is something that the original framers of ANCSA did not intend. The sovereignty issue must be left alone, by allowing the provisions of ANCSA to stand as is.

If, as the proponents claim, the amendments are intended to be neutral with respect to sovereignty, then they could best do this by saying nothing about it.

The fact that Section 7(c) exists at all is proof that there is an attempt to have an effect on the sovereignty issue.

On the issue of taxation of ANCSA lands. As an Alaskan, I believe that the law should not be amended. After 1991, the recipients of those lands should be subject to exactly the same tax laws as the rest of us Alaskans.

The amendment says that only developed land would be taxable, and then goes on to define developed in such a way as to exclude lands of almost any type being used for a multitude of things, including construction of buildings.

There has been a 20-year moratorium on taxes. That is sufficient. Let's all shoulder the same burden of taxation within our State.

I will not speak on the issue of Native corporation stock transfer, others will do that. I merely want to make these two points clearly and simply, the one on sovereignty and the one on taxes. Let's all be treated as Alaskans instead of setting in place the system that will treat us as two different types of citizens, depending on birthright. That is the American way. We are all equal, let us be governed that way.

Thank you for letting me present my views.

[The prepared statement of Mr. Nava follows:]

Testimony given on the 1991 amendments bills by Joe Nava, a 26 year long Alaskan

I speak in opposition to the proposed 1991 Amendments to The Alaska Native Claims Settlement Act.

On the issue of sovereignty, Section 7(c) I believe that this section must be deleted. It is clearly to me a move toward the achievement of sovereignty for the Native Villages. The 1991 Amendments are not "neutral" on the issue of sovereignty. That is probably the most often repeated falsehood of the decade. The truth is that ANSCA was not neutral about sovereignty. It closed the doorway to sovereignty on purpose. The 1991 Amendments are a step toward sovereignty because they would go back and erase the effects of ANSCA and make ANSCA neutral with respect to sovereignty. That is something that the original framers of ANSCA did not intend. The sovereignty issue must be left alone by allowing the provisions of ANSCA to stand as is.

If, as the proponents claim, the Amendments are intended to be neutral with respect to sovereignty, then they could best do this by saying nothing about it. The fact that Section 7(c) exists at all is proof that there is an attempt to have an effect on the sovereignty issue.

On the issue of taxation of ANSCA lands, I believe that the law should not be amended. After 1991 the recipients of those lands should be subject to exactly the same tax laws as the rest of us Alaskans. The Amendment says that only developed land would be taxable and then goes on to define "developed" in such a way as to exclude lands of almost any type being used for a multitude of things including construction of buildings. There has been a 20 year moratorium on taxes. That is sufficient. Let's all shoulder the same burden of taxation within our State.

I will not speak on the issue of Native Corporation Stock Transfer. Others will do that I am sure. I merely want to make the two points above clearly and simply. Let us all be treated as Alaskans instead of setting in place the system that will treat us as two different types of Citizens depending on birthright. That is the American way. We are all equal. Let us be governed that way.

Thank you for letting me present my views.

Joe Nava 24 May, 1986

Joe Nava
469 NRA Lane
Fairbanks, AK 99709

Senator WALLOP. Thank you, Mr. Nava.

Senator Murkowski, do you have any questions?

Senator MURKOWSKI. I'm wondering, Mr. Nava, that section of the law that you referred to, your interpretation; as long as such lands and interests therein are not developed or leased to third parties, you indicated a reference that even for buildings they would. Could you give us a reference to that?

Mr. NAVA. Yes. If you read the amendments carefully and see that if the land is developed for certain purposes which can include the construction of buildings, they are still not considered developed.

I would urge you to go back and read the definition of "developed" with a very careful scrutiny for that purpose.

Senator MURKOWSKI. I think that's a very good point, and I appreciate your pointing it out. If you put a subsistence cabin on it, is that considered developed or nondeveloped, as an example.

Mr. NAVA. That's one of the questions, and what does constitute a subsistence cabin?

Senator MURKOWSKI. Thank you.

Senator WALLOP. Thank you all very much. I might say, Mr. Haley, that I view your testimony as one of the celebrations of America. It isn't very far west of here that a statement like that about somebody in Government would send the whole room.

I have no quarrel with your statement and characterization of it. I just think that's one of the things that makes America unique, is that we can say what we wish about the function of Government. You did. Some of the room will agree and some will disagree, but it's just a damn nice statement about our country. I thank you all.

Panel 6. Mary Jane Fate; Pat Isaacson, Raymond Pitka, Woody Salmon, Lorrie John, Claude Demientieff, Elaine Pitka, and Gilbert Stephens.

While they're coming up, may I ask Mary Bishop of Fairbanks, William Waugaman, Mike Stephenson, Alan Jones, Steve Cline, Jim Whisenhant, Dave Lacey, and Mark Ringstad to be making their way forward to the row of seats behind.

Mary Jane Fate, please.

STATEMENT OF MARY JANE FATE, PRESIDENT, BAAN-O-YEEL KON CORP.

Ms. FATE. Good morning, Honorable Malcolm Wallop and Frank Murkowski.

My name is Mary Jane Fate. I live in Fairbanks. I was born and raised in the village of Rampart, located on the Yukon River. I am of Athabaskan descent.

I am also a shareholder of Doyon, Limited, which is a regional corporation, and a shareholder in Baan-O-Yeel Kon Corp., which is a village corporation formed pursuant to the Alaska Native Claims Settlement Act passed by Congress in 1971. I am presently the President and Executive Director of that village corporation.

Our village corporation consists of only 174 shareholders. Although small and geographically located far from any marketable areas, we have been successful having declared seven straight cash dividends from 97 cents to $1.25 per share to shareholders of record.

Our subsidiary corporation operates a small store and a U.S. Post Office in the village, while our village corporation administers our investment portfolio, receives important yearly 7(i) revenue from the regional corporations, and generates rent and lease income.

Our corporation is successful mainly because of the conservative leadership of an involved and knowledgeable Board of Directors, a small and dedicated staff of shareholders. One hundred percent shareholders are employed. And in using the lowest-cost approach in running the operations with continued communication with the shareholders.

To date we have paid Federal taxes, corporate taxes, and State taxes, which is unlike the majority of Alaska residents, who do not pay individual State taxes.

We have interim conveyance of 85,000 acres of the 92 allocated to our village corporation. It's taken us very much time and quite costly, for we have to give a lot of our land under the Section 14(c) (1) and (2) to individual groups for homesites, campsites and so forth, also to nonprofit, such as churches. And then, of course, we have to give lands to the municipal, whether it be borough, city, the State, to hold in trust if unincorporated, to nonprofits, airports, etc.

Also, we have plotted our easements and will have to address R. S. 2477 in the future. I do feel we have brought employment to our village area, but very small.

We have involved our shareholders. We hope to get more economic development in other areas. And we have donated to entities and individuals and promotionals within our village, which was never done before by outsiders.

Although today we are successful, in the future, things can turn downward, as many other Alaska Native Claims Settlement Act entities have found themselves.

Therefore, I support the concepts of Senate Bill 2065 to amend the Alaska Native Claims Settlement Act to provide for all Alaska Natives to be stockholders, to continue ownership to our land, and to have the rights and options to plan, implement and maintain these achievements for the best interest of all Alaska Natives and this State and its people.

As you proceed, have these amendments well thought out, using a common-sense approach, that do not place a burden on the villages, but rather lifts a burden—which in some instances was imposed by ANCSA itself.

Please make the Act more readable, if possible. On behalf of the Baan-O-Yeel Kon Corporation, I extend our gratitude to you for holding the hearings in Alaska, and we hope you have a good visit in our great state.

Thank you.

Senator **Wallop**. Thank you, Mary Jane. You are asking a whole lot of Members of Congress to make something more readable. That's one of the challenges we're not up to. We will do the best we can.

Pat Isaacson.

STATEMENT OF PAT ISAACSON, PRESIDENT, BEAN RIDGE CORP., AS PRESENTED BY ROCKER BURKE

Ms. **Burke**. I represent the delegation from Bean Ridge Corp., Pat Isaacson. My name is Rocker Burke. I was hired by Bean Ridge Corp. of Manley Hot Springs.

I support Senate Bill 2065, except Section 10, wherein, Bean Ridge will—and I advise that other corporations use the Alaska land bank.

I would also like to state, we're not 20 tribes here in Alaska, and we have not been sovereign since Russia went home. And if 7(c) and 7 this or 7 that bothers you, why not read 14(c), which provides you and your extension. When you tell us where you are, what you own, etc, what you will develop, this section provides for that. This section only wants to govern our land—this is Section 7, that wants to govern our land. 14(c) is all about your land. And everything else that we have not applied for, or been given conveyance to, or that people have railroaded us toward, or pushed us into and then taken the control away from, we are opposed to any of that sort of activity, because it jeopardizes national security.

You see what happened to your pipeline. We had the allotments going, then they wanted a pipeline, and so we came up with these corporations to shorten the time it would take to get oil to our national holdings in the lower 48.

Because of everybody's greed and their ability to overrun the poor people, things have kind of gone topsy-turvey and out of hand.

I think our biggest failure was watching NASA lift off the *Challenger* and watching it blow up. That hurt. And it made us mad, and we're here today, are you? Thank you.

Senator **Wallop**. Thank you.

Mr. Pitka.

Ms. **Pitka**. It's Ms. Pitka.

Senator **Wallop**. It says Raymond. I'm sorry.

Ms. **Pitka**. Oh, I'm sorry, there's two Pitkas.

Senator **Wallop**. Oh, I see. Is Raymond Pitka here?

[No response.]

Senator **Wallop**. Well, really, we in Wyoming absolutely can tell the difference between men and women. When it said "Raymond," I knew it should be a man.

Woody Salmon?

[No response.]

Senator **Wallop**. He's not here. Louie John.

STATEMENT OF LOUIE JOHN, ON BEHALF OF THE DANZHIT HANLAII CORP.

Mr. **John**. Thank you, Mr. Chairman. My name is Louie John. I'm from Circle, Alaska, and I represent the Danzhit Hanlaii Corp.

I'm testifying in favor of Senate Bill 2065. I would like to speak on two issues.

Issue one: stock alienation. I believe the restrictions on the alienation of Native common stock should continue indefinitely until such time as the shareholders of the regional corporation or village corporation both terminate such restrictions.

Issue two: after-born. Circle children born after 1971 feel somewhat left out. They feel as if they are not a part of our community or politics because they are left out of our corporation.

Please let us thrive and prosper as we are today as one people. Thank you.

Senator WALLOP. Thank you, Mr. John.

Mr. Demientieff.

STATEMENT OF CLAUDE DEMIENTIEFF, JR., CHAIRMAN OF THE BOARD, DELOYCHEET CORP.

Mr. DEMIENTIEFF. My name is Claude Demientieff. I am the Chairman of the Board of Deloycheet, Inc., a corporation belonging to Holy Cross, which is a small village on the Yukon River in Southwest Alaska.

I support S. 2065 in general. In particular, I would like to touch on the two sections of the bill, the amendments that allow either the maintenance or the lifting of restrictions on stock alienation, and also, I would like to comment that and reaffirm that the sovereignty issue is neutral in this legislation.

I have submitted my full and complete text in writing, and I would like to just, in summary, take excerpts from that.

Our village and regional corporations without the proposed amendment face legislative corporate requirements such as lifting of stock restrictions.

These actions are normally left in the hands of the shareholders, if it is determined that such a corporate move would benefit the company. In other words, such actions are usually strategic in nature and carefully implemented for the benefit of shareholders.

In 1971, it was impossible to determine if the lifting of stock restrictions would be a wise corporate decision.

I believe that most Native corporations feel at this time that the automatic lifting of stock restrictions could eventually place the ownership and control of Native corporations in the hands of non-Native people. And, thus, would further threaten the traditions and lifestyles of the Native people.

In conference yesterday, it was pointed out that it is unprecedented in any one industry; in the same day, all of the shares of the stock become on the market. That's unprecedented. I don't think it should be allowed.

Secondly, I'd like to qualify—I'd like to reaffirm rather the neutrality of the sovereignty issue in these hearings on this legislation.

The subcommittee, during their travels, will be receiving such testimony, will try to relate these amendments to the issue of sovereignty. I do not presume to know the motive. I can only assume that opponents have a fear they will lose control over the private corporations and private groups. They believe that access to private land would be limited, and hunting and fishing rights would become increasingly difficult to obtain and maintain.

Such situations already exist, but not by the actions of Native people.

The fact is that the issues of sovereignty have nothing to do with the ANCSA amendments. Section 7(c) identifies the amendments as relating to no other legislation, and qualifies the amendments as strictly ANCSA's.

A special relationship with the Federal Government and Native people have existed for many years, with changes that only enhance the relationship. Those who oppose these amendments are interpreting the efforts of Native people as negative in nature.

Opponents feel that Native people will take away what they do not already have. Such flagrant positions serve only to undermine the position and testimony of those who scream anti-sovereignty.

These same opponents watch documentaries on public broadcasting about Native people receiving welfare and living off the land. They sit in front of their television sets with self-righteous justification and contemplate the future of Native people's rights to do what they have been doing since the beginning of time—and that is, surviving.

The land is our bank and the animals our cash. Without them we could not survive. Just as America would not survive without a cash economy.

Now our opponents cloud the ANCSA amendments by their clammer against sovereignty. Such testimony has no place in these hearings.

I urge Congress to keep these amendments simple and to focus attention to the matter at hand, changes to the Alaska Claims Settlement Act relating to the affairs of village and regional corporations, as pertains to assets, ownership and stockholders' rights.

This concludes my testimony. Thank you for allowing me to testify before you.

[The prepared statement of Mr. Demientieff follows:]

TESTIMONY OF CLAUDE DEMIENTIEFF, JR., CHAIRMAN, DELOYCHEET, INC. BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION. MAY 24, 1986 IN FAIRBANKS, ALASKA.

GREETINGS. IT GIVES ME GREAT PLEASURE TO BE ABLE TO SUBMIT TESTIMONY ON THE 1991 LEGISLATION NOW PENDING IN CONGRESS. THIS LEGISLATION KNOWN AS SB 2065 HAS BEEN REQUESTED BY THE ALASKA FEDERATION OF NATIVES THROUGH THE AUTHORITY GIVEN THEM IN CONVENTION BY VILLAGES AND CORPORATIONS ACROSS THE STATE OF ALASKA. I AM HERE TO SPEAK IN FAVOR OF THE AMENDMENTS BECAUSE I BELIEVE THAT THE TIME HAS COME TO REEVALUATE THE PRESENT POSITION OF THE NATIVE PEOPLE OF ALASKA IN RELATION TO THE ORIGINAL INTENT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. ANCSA (P.L.92-203) FILLED AN "IMMEDIATE NEED FOR A FAIR AND JUST SETTLEMENT OF ALL CLAIMS BY NATIVES AND NATIVE GROUPS OF ALASKA, BASED ON ABORIGINAL LAND CLAIMS". NOW IN 1986 IT IS TIME TO MAKE CHANGES IN THE LAW WHICH WOULD BETTER SERVE THE ORIGINAL INTENT OF P.L.92-203. CONGRESS IN 1971 ENACTED A LAW THAT STATED FAIRNESS TOWARD NATIVES PEOPLE, THEREFORE IT IS NO PRESUMPTION THAT CONGRESS INTENDS TO REMAIN FAIR AND SERVE THE INTERESTS OF ALASKAN NATIVE PEOPLE IN THEIR EFFORTS TO IMPLEMENT A JUST SETTLEMENT.

OVER THE PAST 15 YEARS THERE HAVE BEEN BOTH GOOD TIMES AND BAD TIMES. SOME OF OUR PEOPLE HAVE HAD TO FOREGO THE VILLAGE LIFESTYLE TO BECOME BUSINESS PEOPLE DEPENDANT UPON A CASH

ECONOMY. SOME OF OUR LEADERS HAVE BEEN VERY SUCCESSFUL IN THIS TRANSITION WHILE OTHERS IN THEIR WORK HAVE BEEN MET WITH POLITICAL OPPOSITION. THESE HAVE BEEN TRYING TIMES FOR EVERYONE.
I PRAY THAT THESE TESTS OF FIRE WILL REINFORCE THE ALREADY STRONG SPIRIT OF NATIVE PEOPLE IN THE PRESENT UNIFIED EFFORT TO "TUNE" ANCSA WITH THESE PROPOSED ADMENDMENTS.

NATIVE PEOPLE ARE CONCERNED ABOUT THE FUTURE. AS WITH ANYONE WHEN THE FUTURE IS UNKNOWN THERE ARE FEARS THAT SEEM TO ERODE THE VERY FABRIC OF OUR EXISTENCE. OUR VILLAGE AND REGIONAL CORPORATIONS, WITHOUT THE PROPOSED AMENDMENTS, FACE LEGISLATED CORPORATE REQUIREMENTS SUCH AS THE LIFTING OF STOCK RESTRICTIONS. THESE ACTIONS ARE NORMALLY LEFT IN THE HANDS OF SHAREHOLDERS IF IT IS DETERMINED THAT SUCH A CORPORATE MOVE WOULD BENEFIT THE COMPANY. IN OTHER WORDS, SUCH ACTIONS ARE USUALLY STRATEGIC IN NATURE AND CAREFULLY IMPLEMENTED FOR THE BENEFIT OF SHAREHOLDERS. IN 1971 IT WAS IMPOSSIBLE TO DETERMINE IF THE LIFTING OF STOCK RESTRICTIONS WOULD BE A WISE CORPORATE DECISION. I BELIEVE THAT MOST NATIVE CORPORATIONS FEEL AT THIS TIME THAT THE AUTOMATIC LIFTING OF STOCK RESTRICTIONS COULD EVENTUALLY PLACE THE OWNERSHIP AND CONTROL OF NATIVE CORPORATIONS IN THE HANDS OF NON-NATIVE PEOPLE AND THUS WOULD FURTHER THREATEN THE TRADITIONS AND LIFESTYLES OF NATIVE PEOPLE. ALASKAN NATIVES HAVE ENOUGH OUTSIDE INFLUENCE ON THEIR LIVES. THERE IS NO NEED TO ADD MORE PROBLEMS TO VILLAGE LIFE BY PLACING NATIVE PEOPLE'S FUTURE IN ABSOLUTE QUESTION WITH THE AUTOMATIC LIFTING OF STOCK RESTRICTIONS. THE

AMENDMENTS PROPOSED ON STOCK RESTRICTIONS WOULD ALLOW NATIVE PEOPLE THE OPTION TO LIFT OR MAINTAIN RESTRICTIONS IN A FAIR AND EQUITABLE MANNER BY A MAJORITY VOTE OF THE SHAREHOLDERS. I FAVOR THIS AMENDMENT BECAUSE IT THEN PLACES THE FUTURE BACK INTO THE HANDS OF NATIVE PEOPLE. ALTHOUGH THE FEARS OF THE UNKNOWN FUTURE WOULD NOT DISAPPEAR, AT LEAST THERE WOULD BE A SELF-MOTIVATED INCENTIVE TO DIRECT AND MANAGE CORPORATE DECISIONS WITH REGARD TO ALL SHAREHOLDER'S INTERESTS. AUTOMATIC LIFTING OF STOCK RESTRICTIONS IMPLIES A COMPLETE DISREGARD FOR SHAREHOLDER PLANS AND INTERESTS. THIS I WOULD CONSIDER AS DISINHERITING MY CHILDREN WHO ONE DAY WILL REALIZE THE HARD WORK AND TEARS THAT WENT INTO THE FIGHT FOR LAND CLAIMS. OUR SWEAT AND LABORS HAVE ALWAYS BEEN FOR OUR CHILDREN'S FUTURE, NOT FOR ANY CALCULATING INDIVIDUAL WAITING TO HARVEST THE FRUITS OF OUR LABORS. I URGE YOU TO ALLOW NATIVE PEOPLE TO DETERMINE THEIR OWN DESTINY. IF THESE AMENDMENTS ARE ADOPTED, CONGRESS WILL REAFFIRM SELF-DETERMINATION AND ALLOW NATIVE PEOPLE A COLLECTIVE VOICE IN THEIR FUTURE AND THEIR COMPANIES.

THE SUBCOMMITTEE DURING THEIR TRAVELS IN THE STATE OF ALASKA WILL BE RECEIVING TESTIMONY FROM INDIVIDUALS, WHO WILL TRY TO RELATE THESE AMENDMENTS TO THE ISSUE OF SOVEREIGNTY. I DO NOT PRESUME TO KNOW THE MOTIVES FOR SUCH TESTIMONY. I CAN ONLY ASSUME THAT OPPONENTS HAVE A FEAR THAT THEY WILL LOOSE "CONTROL" OVER THE AFFAIRS OF PRIVATE CORPORATIONS AND PRIVATE GROUPS. THEY BELIEVE THAT ACCESS TO PRIVATE LAND WILL BE LIMITED AND THAT

HUNTING AND FISHING RIGHTS WILL BECOME INCREASINGLY DIFFICULT TO OBTAIN AND MAINTAIN. SUCH SITUATIONS ALREADY EXIST BUT NOT BY THE ACTIONS OF NATIVE PEOPLE. THE FACT IS THAT THE ISSUE OF SOVEREIGNTY HAS NOTHING TO DO WITH ANCSA AMENDMENTS. SECTION 7c IDENTIFIES THE AMENDMENTS AS RELATING TO NO OTHER LEGISLATION AND QUALIFIES THE AMENDMENTS AS STRICTLY ANCSA'S. THE SPECIAL RELATIONSHIP OF THE FEDERAL GOVERNMENT AND NATIVE PEOPLE HAVE EXISTED FOR MANY YEARS WITH CHANGES WHICH ONLY ENHANCE THE RELATIONSHIP. THOSE WHO OPPOSE THESE AMENDMENTS ARE INTERPRETING THE EFFORTS OF NATIVE PEOPLE AS NEGATIVE IN NATURE. OPPONENTS FEEL THAT NATIVE PEOPLE WILL TAKE AWAY WHAT THEY DO NOT ALREADY HAVE. SUCH FLAGRANT PRIDE IN POSSESSION SERVES ONLY TO UNDERMINE THE POSITION AND TESTIMONY OF THOSE WHO SCREAM ANTI-SOVEREIGNTY. THESE SAME OPPONENTS WATCH DOCUMENTARIES ON PUBLIC BROADCASTING ABOUT NATIVE PEOPLE RECEIVING WELFARE AND LIVING OFF THE LAND. THEY SIT IN FRONT OF THEIR TELEVISION SETS WITH SELF-RIGHTOUS JUSTIFICATION AND CONTEMPLATE THE FUTURE OF NATIVE PEOPLE'S RIGHT TO DO WHAT THEY HAVE BEEN DOING SINCE THE BEGINNING OF TIME--AND THAT IS SURVIVING. THE LAND IS OUR "BANK" AND THE ANIMALS ARE OUR "CASH". WITHOUT THEM WE COULD NOT SURVIVE, JUST AS AMERICA COULD NOT SURVIVE WITHOUT A CASH ECONOMY. NOW OUR OPPONENTS CLOUD THE ANCSA AMENDMENTS BY THEIR CLAMOR AGAINST SOVEREIGNTY. SUCH TESTIMONY HAS NO PLACE IN THESE HEARING. I URGE CONGRESS TO KEEP THESE AMENDMENTS SIMPLE AND TO FOCUS ATTENTION TO THE MATTER AT HAND--CHANGES TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT RELATING TO THE AFFAIRS OF VILLAGE AND REGIONAL CORPORATIONS AS

PERTAINS TO ASSETS, OWNERSHIP AND STOCKHOLDER RIGHTS.

THIS CONCLUDES MY TESTIMONY ON SB 2065. WE SUPPORT THE LANGUAGE AND CONCEPT AMENDMENTS TO SB 2065 PROPOSED BY DOYON, LTD. AND THE TANANA CHIEFS CONFERENCE, INC. WE STRONGLY URGE PASSAGE. IN THIS EVER CHANGING WORLD IT IS DIFFICULT FOR NATIVE PEOPLE TO ADJUST. THERE ARE SO MANY THINGS AFFECTING FAMILIES AND COMMUNITIES THAT IS DIFFICULT FOR ANYONE TO JUST KEEP APPRAISED OF ALL THE CHANGES. SB 2065 GIVES NATIVE SHAREHOLDERS AN OPPORTUNITY TO HELP GUIDE SOME OF THE CHANGES IN ALASKA, NOT FOR PERSONAL OR POLITICAL GAIN, BUT FOR THE PRESERVATION OF A PEOPLE. AS OUR ADVOCATES IN CONGRESS YOU CAN HELP NATIVE PEOPLE ACHIEVE THIS SIMPLE LEVEL OF DETERMINATION. I URGE CONGRESS TO UNDERSTAND THE DIFFICULTIES IN IMPLEMENTING THE ALASKA NATIVE CLAIMS ACT AND ASSIST NATIVE PEOPLE IN BRINGING ABOUT THE FAIR AND EQUITABLE SETTLEMENT INTENDED BY CONGRESS. THANK YOU FOR GIVING ME THE OPPORTUNITY TO PRESENT MY TESTIMONY AND I WISH YOU WELL IN YOUR JOURNEYS IN ALASKA.

Senator WALLOP. Thank you, Mr. Demientieff. Now, we will hear from Elaine Pitka.

STATEMENT OF ELAINE PITKA, ON BEHALF OF DINEEGA CORP.

Ms. PITKA. Thank you, Mr. Chairman. My name is Elaine Pitka, and I'm from Ruby, Alaska, a village of approximately 250 people.

I'm testifying on behalf of the Dineega Native Corp.

It was an act of God that created distinct lands for a distinct people. Through an act of Congress, the Native people were awarded compensation for a loss of 90 percent of the land, retention of 10 percent.

Today we come here, we are in support of most of the content of Senate Bill 2065. Two areas especially are of concern, and this concerns land and stock.

One area we oppose greatly concerns State condemnation of land on Native land. First of all, land is our life; therefore, of vital importance to us.

The way the act now stands, we are in danger of losing our land, and we feel there must be remedies to the act through amendments which afford protection of these lands.

We protect that which we love. Our land could be lost through taxation. We are asking for the tax exemption on all undeveloped land. Also, continued protection of the use of land banks, if we so choose.

Another protection mechanism may be afforded through the transfer of lands to another entity. We also ask for this option.

Stocks are another vital concern. The loss of stocks means the loss of land, since they are tied together under the present Claims Act.

We ask that the stocks be kept in the restricted status indefinitely. We do not wish to see our stock on the open market.

We would also restrict stock inheritence to Natives and Native descendants. We oppose the passing of stock by will to non-Natives.

Also, while in restricted status, the corporation should have an option to buy stockholders' stock, if that is the wishes.

We oppose the stand land condemnation section of the bill, since we do not feel that this would be a fair move by the State to condem our land for public use.

The State was awarded three times our land allotment. With our one-tenth land retention, we feel this would not be in our best interest.

Land, stock and State condemnation of land are our primary concerns. Thank you.

Senator WALLOP. Thank you, Ms. Pitka.

Now, I hate to call you Gilbert, given my record so far. Are you Gilbert?

Ms. MAYO. No, I'm not. My name is Cheryl Mayo, and I am from Dinyee Corp. of Stevens Village.

Senator WALLOP. Any you're testifying for Gilbert Stevens?

Ms. MAYO. Yes.

Senator WALLOP. Thank you.

STATEMENT OF GILBERT STEPHENS, PRESIDENT, DINYEE CORP., AS PRESENTED BY CHERYL MAYO

Ms. **Mayo**. I am here today to speak in support of Senate Bill 2065. One of our main concerns is the protection of the Native ownership to our land. We have lived off these lands for many thousands of years, and our lands are our way of life, as our ancestors and our children, and we want them to have the same right.

I do have a concern as to how the bill is presently written concerning who is the qualified transferee. I feel that it should be more specific in stating, for example, like the tribal government as a qualified transferee.

I also feel that it's very important for the villages to review this bill before it is signed, to make sure that this bill doesn't harm the tribal government in any way. Thank you.

Senator **Wallop**. Thank you very much, Ms. Mayo.

Let me ask Mary Jane Fate and Claude Demientieff, each of you are talking about limiting the ability to transfer stock to non-Natives, I think, through a variety of means through which it could change hands.

I can understand how some corporations would wish to do it that way, and other corporations might wish to do it another. Is there reason in drafting legislation such as this to leave that to corporate option? I guess what I'm saying is, why wouldn't the corporation be the one to determine who its stock went to or could not go to?

Ms. **Fate**. I'd have to answer that, I'm against transferring stock out of the hands of the Alaska Natives. I would like to underline that.

Senator **Wallop**. Under any set of circumstances?

Ms. **Fate**. Well, I'm sure we could set up different classes, and we do have non-voting capacity right now of shareholders that are non-Native. The amount of Native blood I would like to see is lesser than it is now. The minimum is one-quarter.

Senator **Wallop**. Well, I guess what I'm asking then is, isn't that something that Baan would be able to determine for itself, and that Chugach or AHTNA might do in a different way; They might have a determination that was suited to how they viewed their lands?

Ms. **Fate**. You're right, Senator. I believe it's up to the individual entities, and it's up to their vote of the shareholders.

Senator **Wallop**. Mr. Demientieff.

Mr. **Demientieff**. Right now the situation exists where the transfer of stock to others is happening. I think that these amendments here is an attempt to, at least if not control it, at least be able to monitor very closely at the direction and the management of the regional or village corporation, how those shares are transferred.

This is a very great fear of the future, and that fear is that ownership will pass on to someone else. And loss of ownership in the corporation ultimately means loss of their lands.

The corporations normally—or any corporation, normally, should have the ability to place restrictions or maintain those restrictions or lift the restrictions or identify several classes of stock rather than have it legislated; that the self-determination is placed back into the hands of the management of the corporations so that they can determine and set the course for the future of the company.

Senator WALLOP. So what I'm hearing from you is not that we should determine in this legislation who could and could not have it, but that the corporations be given the authority to make that determination.

Mr. DEMIENTIEFF. Yes.

Senator WALLOP. You don't want a bunch of people from Wyoming telling you how to run your corporations, if you can avoid it, do you?

Mr. DEMIENTIEFF. No.

Senator WALLOP. You only want the authority to run them.

Mr. DEMIENTIEFF. I wouldn't want to run corporations in Wyoming either.

Senator WALLOP. Some of them I would, and some of them I wouldn't. But I guess that's my point, what you're after is a range of authority, so that Doyon or Chugach or whatever corporation can say we'll set up our stock in these classes, and this is transferable and that's not transferable.

Mr. DEMIENTIEFF. Yes. It's almost more important to have that control in-house because you're going to have very different situations in every region of the State. No one plan will work for everyone.

Senator WALLOP. Frank?

Senator MURKOWSKI. Thank you, Mr. Chairman.

I have a question for Elaine Pitka with regard to her testimony and the question of the stock transferability.

Take the case of a Native woman who married a non-Native and there were children in the marriage, and the Native woman was a recipient of regional stock. If she were to pass away, what would be your recommendations as to where that stock should go? Should it go back to the corporation for reissue, or would the father have to raise those children and that would be an asset of the family entity, and the children wouldn't have the benefit of that. I'm wondering what your recommendation would be?

Ms. PITKA. That's another recommendation in the bill itself is to allow the blood quantums to be lowered to allow—if she passed it on to her children and the blood quantum——

Senator MURKOWSKI. Well, if they were minor, she couldn't pass it on to the children under the existing current inheritance law, because they would be minors. There could be a trust established and other vehicles.

Let's assume that the women had no children and passed on.

Ms. PITKA. She would have other Native heirs.

Senator MURKOWSKI. My point is simply not to attempt to address the answer, I'm more interested in your input, because, you know, it's a question of where inheritance falls in order. And in the appropriate order the husband succeeds the wife, or the wife succeeds the husband, depending on which goes first. Now we're talking about an exception to that to keep the Native shares separate, but we still have the matter of traditional inheritance law to address. So I'm not pursuing this line of questioning for any other purpose than to point out that that is a problem, and there could be suits initiated under constitutional interpretation of inheritance law that would give that survivor a right to whatever the assets of that marital community were.

So again I don't expect an answer, but——

Ms. **Pitka**. It would present a problem if eventually all the shares fell into non-Native hands also.

Senator **Murkowski**. Yes. Of course.

Ms. **Pitka**. Well, you know, it's something to be worked out.

Senator **Murkowski**. I have one more question. I know we want to get through the witnesses, but I think I would ask Mr. Demientieff the question of what his attitude would be if reference to 7(a) were not in the resolutions that are currently before the Congress. My question being, would you support the legislation if it were omitted, or would you be inclined to support it if it were omitted?

Mr. **Demientieff**. The reference to the——

Senator **Murkowski**. Transfer of assets to other entities.

Mr. **Demientieff**. I'm not sure I can give you a position right at this time.

Senator **Murkowski**. All right. The record will be open for 30 days. I just throw it out, because obviously this is the section that gets us into the area of interpretation, which implies different things to different people.

Mr. **Demientieff**. Conceptually, any corporation, whether it be Native or non-Native, has an ability within existing law to transfer assets.

I think that if there is to be a reaffirmation of the Native corporations to transfer its assets, then it should be in this legislation. Limitations on who the entity it's to be transferred to, I think that consultation with Native groups would be of absolute importance.

Any time that a definition is tried to—tried to pinpoint the transfer, then it gets very limiting. And I don't think that limits should be imposed upon a corporation because it has vast landholdings or vast subsurface rights. There are private assets that the corporation should be able to dispose of in any manner that they see fit, and act like a private corporation.

Senator **Murkowski**. You're quite right, of course, the corporations do have the authority now to transfer assets. But this would be theoretically an expansion of that. I think your answer is an appropriate one, and if you would care to elaborate further for the record, we would appreciate that.

Mr. **Demientieff**. I would like to state just one thing briefly. That even though it exists in present law, the transfer of assets, it's important for this legislation to reaffirm the Native corporations' ability because existing law refers to all corporations. Native corporation is identified with this law and it should be related to other corporations' ability to transfer assets.

Senator **Murkowski**. It's an interesting point and one that we continually are confronted with as we reflect on corporate law in the universal sense and the uniqueness of corporate laws as applied to the regional corporations. We are in a neither fish, nor fowl area in some instances particularly with the legality and the liability.

Thank you, Mr. Chairman.

Senator **Wallop**. Thank you. And thank you all very much. We appreciate it.

Now, Panel 7, Mary Bishop, Bill Waugaman, Mike Stevenson, Alan Jones, Steve Cline, Jim Whisenhant, Dave Lacey, Mark Ringstad.

While they're coming up, could I get Panel 8; Janet Emerick, Dot Lake Native Corporation; Shirley Lee, Evansville; Theresa Clark, Gana 'A' Yoo; Nels Petersen, Gwitchyaa; Gabriel Nicholi, Hee-Yea-Lindge; Ruth Ridley, Hungwitchin, Larry Edwards, and Rudy Chase, to come up behind them.

We will begin with Mary Bishop.

STATEMENT OF MARY BISHOP

Ms. BISHOP. Thank you, Senators.

Earlier today you had a very worthwhile and meaningful exchange for 30 minutes with Doyon's President, Morris Thompson, and other corporate leaders regarding taxation and land conveyance to tribal councils.

I respectfully relinquish my time in favor of a similar exchange on the same topics with yourselves and Dr. Sam Harbo. Thank you.

[The prepared statement of Ms. Bishop follows:]

PUBLIC HEARING ON S. 2065

Amendments to the Alaska Native Claims Settlement Act
U.S. Senate--Subcommittee on Public Lands and Reserved Waters
May 24, 1986
Fairbanks, Alaska

Testimony of:
Mary Bishop
1555 Gus's Grind
Fairbanks, AK 99709
907-455-6151

Thank you for providing this opportunity for Fairbanksans to testify. I hope that these short three-minute presentations signify the beginning of a better exchange between all Alaskans and Congress regarding the proposed amendments to ANCSA.

My written testimony includes several attachments as supporting documents.

The points which I wish to emphasize relate first,--to the time frame for passage of this proposed bill and second,--to the proposed removal of obstacles to native sovereignty now within the bill. Those obstacles were agreed upon by the state, by the native community and by Congress when the original 1971 settlement was made.

I'm sure you are aware of the strong push for native village sovereignty in Alaska. Although the Alaska Federation of Natives does not openly support this movement, the movement is strong in Alaska. State courts must continuously deal with sovereignty claims and the Native American Rights Foundation has advocated ANCSA amendments supporting it, one of which is notably similar to the proposed section 7(c). (See attached memo from Lare Ashenbrenner and Bob Anderson)

As with any special interst group, prudence suggests we make a very careful review of their proposals. It wouldn't, to me, seem wise to completely trust legislation proposed by any special interest group. My first point: We need more time to study these amendments, well beyond October of this year.

My second point: The 1991 amendment package removes obstacles to sovereignty that were an integral part of the original settlement agreed to by the state, the natives and Congress.

Because of ANCSA, the MAJOR OBSTACLE TO SOVEREIGNTY has been the separation of tribal governments from land ownership. ANCSA lands were specifically placed in state chartered corporations. If any tribal government existed, it was without land ownership.

Native American rights advocates recognize this as the major obstacle to Alaska native sovereignty. That obstacle would be removed if the proposed land transfer provisions are allowed. ANCSA lands could go from corporate ownership under state law to native-only, communal, non-transferable ownership

In addition, tribal government status is reaffirmed (under Section 7) as is the trust responsibility (under Section 1(f). None of this was part of the original agreement.

All of these "readjustments" would provide the same type of land ownership that the Pueblos had when they received sovereignty through a U.S. supreme court decision many years ago.

Those who advocate the complete and rapid passage of the 1991 amendment package persist in asking us to trust them--trust that they are not asking for sovereignty--trust that the amendments do not affect legal arguments concerning sovereignty.

Let me review for you a little story about "trust". It's a well documented story--part of a recent Alaska supreme court decision, the Madison decision, on the controversial "subsistence priority" for hunting and fishing in this state.

Mary Bishop

In 1978 the state senate was considering passage of the original subsistence priority law. We were asked to trust--if the state passed the law, perhaps advocates would not push for it in federal legislation. Then on the floor of the state Senate, Senator Charlie Parr expressed his concern. Parr suspected that this bill would not be good for some of his Fairbanks constituents, in particular the Chitina dipnetters. Whereupon, Senator Nels Anderson of Dillingham, the bill's sponsor, responded: Oh, no, this bill is designed to protect the interests of your Chitina dipnetters. Trust me.

...and we did.

How naive we were.

Thank you.

Section 1

Congress finds and declares that —

(f) Both the Alaska Native Claims Settlement Act, as amended, and this act are Indian legislation enacted by Congress pursuant to its plenary authority under the Commerce Clause to regulate Indian affairs.

Section 6

ANCSA is further amended by adding a new section to read as follows:

Sec. 7a. (a) (1) A Native corporation may convey some or all of its assets, including title to the surface and/or subsurface estate of land, or any interest therein, to a qualified transferee entity for no consideration or for such consideration as its shareholders may approve.

(2) A qualified transferee entity is an entity organized pursuant to or recognized by state or federal law which —

(A) has a membership composed of persons whose interest in the entity is not transferable;

(B) provides membership in the entity for every person who holds Native [illegible] stock in the Native corporation making the transfer of assets on the day before the date of such transfer, which membership shall terminate at such stockholder's death; and

(c) In addition to the persons described in paragraph (b) of this subsection, accepts as new members only Natives and descendants of Natives.

Section 7

ANCSA is further amended by adding a new section to read as follows:

Sec. 7c. Nothing in this act shall be construed as enlarging or diminishing or in any way affecting the scope of any governmental authority of a federally recognized tribe, traditional Native council or Native council organized pursuant to the Indian Reorganization Act, as amended, or any right, privilege or immunity of Alaska Natives as Native Americans in the relationship with the government of the United States.

DATE: August 22, 1985

TO: AVCP and Calista Corporations

FROM: Lare Aschenbrenner and Bob Anderson

RE: Draft legislation to implement A.F.N. Special Convention Resolution 35 and provide certain additional protections for Native land ownership, priority Subsistence rights and Tribal powers of self-government.

As you are aware the Draft legislation which is attached was developed in consultation with the 1991 Committees of the AVCP and Calista Corporation during this past summer. It originated, however at the conclusion of the AFN Convention last October when it became apparent that the eight AFN Resolutions, although necessary and appropriate, failed to cover a number of vital 1991 issues including protection of Native subsistence rights and tribal powers of self-government. In addition the AFN Resolutions failed to adequately protect Native land ownership in the case of Native Townsite, Municipal Corporation as well as IRA and Traditional Council lands. In early 1985 several attorneys familiar with the Alaska Native Claims Settlement Act and Indian Law issues formed a Working Group for the purpose of responding to widespread concerns voiced by the Native Community with respect to the gaps left by the eight AFN Resolutions. (This group was composed of private attorneys David Case and Lloyd Miller, Alaska Legal Services attorneys Robert Hickerson, Don Cooper, Jim Bamberger and Heather Grahame, and Bob Anderson and Lare Aschenbrenner of the Native American Rights Fund.)

The result of this effort (with certain omissions and modifications) became AFN Resolution 35 at the AFN Special Convention in March 1985. Although there is considerable disagreement as to what the convention intended, as you are aware Resolution 35 in its final written form was never formally adopted, but rather submitted "to the villages for their consideration and review" by AFN Resolution No. 6. AFN has since declined to draft legislation implementing Resolution 35 or apparently to give it any further consideration.

Our group of attorneys therefore proceeded to draft such legislation for the use of Native Village Councils and other organizations in their consideration of 1991 legislative options. The initial draft was revised on a number of occasions, most recently following our meeting with your respective 1991 committees in Bethel. If further questions arise with respect to the meaning of the proposed legislation we will be pleased to respond.

Lare Aschenbrenner

Bob Anderson

Proposed Legislation - Discussion Draft - Revised 6/15/85

SPECIAL AFN RESOLUTION 84-35, Paragraphs 1, 2 and 3 provides:

originally sponsored by United Tribes of Alaska + now by Alaska Native Coalition

1. No provisions of ANCSA should be construed as enlarging, diminishing or any way affecting the scope of any governmental powers of Alaska Native Tribal governments.

2. All inherent governmental powers and all provisions of the 1934 Indian Reorganization Act, as amended, which as of the date of passage of ANSCA, applied to Alaska Native Tribes (including groups of Indians, Eskimos or Aleuts), shall continue in full force and effect thereafter notwithstanding Section 704(a) of the Act of October 21, 1976 (which repealed Secretarial authority to proclaim new reservations).

3. No provision of ANCSA shall be construed as abridging in any way the governmental powers of Alaska Native Tribes, either over their members or over any areas of Indian Country (as defined in 18 U.S.C. 1151) within their respective jurisdictions.

Explanation

State officials have long contended that the passage of ANSCA somehow terminated or at least greatly reduced the Governmental power of Alaska Native Tribes. The above three paragraphs would eliminate the State's contention. With the exception of the provision reinstating secretarial authority to proclaim new reservations of Paragraph 2, all three of these paragraphs reaffirm the status quo of Tribal government as it existed prior to the enactment of ANCSA. These provisions may be incorporated into ANCSA by adding a new paragraph following 43 U.S.C. 1601(c).

Proposed Legislation

Amend Section 1603 by adding the following subparagraph:

(h) No provision of this act shall be construed as enlarging, diminishing or in any way affecting the scope of any governmental powers of Alaska Native Tribal governments, including inherent governmental powers and powers exercised under the Indian Reorganization Act of 1934, as amended by the Act of May 1, 1936, nor as abridging in any way the governmental powers of Alaska Native Tribes either over their members or over any areas of Indian country as defined in 18 U.S.C. 1151 within their respective jurisdictions.

Legislation proposed by Native American Rights Foundation (NARF)

Proposed legislation now in Congress

Section 7

ANCSA is further amended by adding a new section to read as follows:

Sec. 7c. Nothing in this act shall be construed as enlarging or diminishing or in any way affecting the scope of any governmental authority of a federally recognized tribe, traditional Native council or Native council organized pursuant to the Indian Reorganization Act, as amended, or any right, privilege or [illegible]munity of Alaska Natives as Native Americans in their relationship with the government of the United States.

The 1971 ANCSA settlement: Eleven percent of Alaska — 44 million "choice" acres (p.202)* — and almost $1 billion which was exchanged for "anything that is based on aboriginal title", "including any aboriginal hunting and fishing rights that may exist."

In comparison, about one percent of Alaska is held as private land by non-Natives.

In 1971 most Alaskans thought that "lower 48" problems centering around Indian reservation status, hunting and fishing rights, native sovereignty, special tax privileges, and other separate treatment based on race had been avoided in the state.

Nonetheless, if Congress accepts the proposed amendments to ANCSA, it will confuse and alter the original intent — to such an extent that land-based Native sovereignty could much more easily be granted through the court system.

The adjacent diagram explains the steps necessary for judicially obtaining land-based sovereignty. The chart below describes the critically altered and confused Congressional intent which would result with passage of the ANCSA amendment package. In a court of law, unclear expressions of ANCSA must be resolved in favor of the native groups. (p.72)*

. . . and on taxation

All ANCSA lands would be automatically immune from taxation, creditors' rights, adverse possession, etc. unless the creditor or taxing authority proved the lands were developed. Section 10 of the proposed amendment package to ANCSA contains this provision.

Structures and devices which "further the subsistence or other customary or traditional uses of such land" (the subsistence economy?) would not count as development.

In contrast, the original 1971 ANCSA specifies that the Act is not to create any special tax privileges.

Amends remove barriers to sovereignty

	WITHOUT 1991 AMENDMENTS	WITH 1991 AMENDMENTS
FEDERAL TRUST RESPONSIBILITY	• no trust responsibility under ANCSA. • treats Alaskan natives as citizens of U.S. and Alaska, with corresponding rights and obligations.	• creates trust responsibility in Section 1(f). • treats Alaskan natives as Native Americans, with "rights, privileges and immunities" thereof (see Section 7).
TRIBAL STATUS	• no tribal recognition; all emphasis on state corporations, with non-natives able to be stockholders after 1991. • intent not to establish "racially defined institutions". • intent not to create "lengthy wardship or trusteeship".	• asserts that ANCSA does not change the "scope of any governmental authority of a federally recognized tribe...organized pursuant to the Indian Reorganization Act" (see Section 7). • in effect, undoes the original prohibitions against "racially defined institutions" and "lengthy wardship or trusteeship". • allows corporations to transfer land and other assets to another entity of only native members; the members' interests are not transferable (see Section 5). The implications for tribal recognition are strong.
INDIAN COUNTRY	• land given to corporations under state law, with non-natives eligible for corporate stock after 1991. • obviously, lands were not placed in trust for a tribe — i.e. no Indian country.	• corporate lands could be transferred to a native-only entity, which probably would be a tribal council; no further transfer or sale would be possible. • land would be in communal, fee simple ownership of the native-only group. • such provisions imply that the land is held in trust for the native entity; Indian country designation likely would result.

SUMMARY: The intent of ANCSA is exceedingly important, for ANCSA is the legislation that settled in Alaska the aboriginal claims to lands and other rights.

Without the amendments, ANCSA clearly does not establish a trust relationship, tribal status or Indian country.

With the amendments, the barriers in ANCSA to the trust relationship, to tribal status and to Indian country designation essentially are removed.

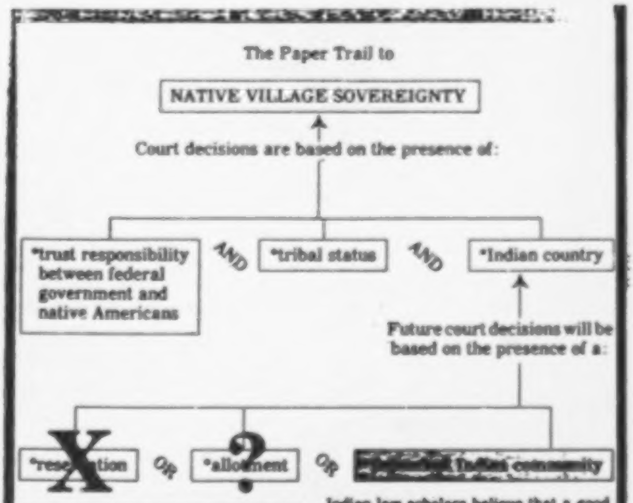
The argument that the 1991 amendments are neutral with respect to sovereignty clearly is vacuous and without merit.

- Out of Doors in Alaska, April-June [illegible]

In order to justify Native village sovereignty, a court must determine that 1) a special trust responsibility between the native Americans and the federal government exists; and 2) tribal government exists; and 3) Indian country exists, that is "trust" lands over which the tribe has jurisdiction.

Normally Indian country is defined by reservation boundaries — including certain adjacent federal lands. In 1971 Congress revoked all reservations in Alaska (except Metlakatla) through Section 19 of ANCSA. (p.190)* Native allotment land may stand as Indian country, but courts have not ruled (p.110)* and it constitutes a small portion of Native lands in Alaska.

Defining Indian country on the basis of "dependent Indian community" stands as the likely path for efforts toward establishing Indian country in Alaska.


The Paper Trail to
NATIVE VILLAGE SOVEREIGNTY
Court decisions are based on the presence of:
*trust responsibility between federal government and native Americans
AND
*tribal status
AND
*Indian country
Future court decisions will be based on the presence of a:
*reservation
X
OR
*allotment
?
OR
[illegible] Indian community

Indian law scholars believe that a good argument can be made that Alaska Native villages are Indian country under the concept of "dependent Indian community". (p.100)*

These "dependent community" lands may be in the communal, fee simple ownership of the native group, (p.79)* such as Section 5 of the proposed ANCSA amendments would provide.

Designation as a dependent Indian community depends on 1) nature of the area (predominately native American, type of land ownership); 2) tribal status; and 3) practice of state and federal agencies in regard to the community, that is special treatment or benefits given to residents. (p.81,82,86 and Regional Solicitor's Opinion regarding Tyonek, 4/18/78)*

State agencies, even now, provide special treatment to certain rural villages. Two examples include the subsistence priority and the requirement that certain villages sign a waiver of their sovereign immunity from suit before they receive state loans.

The standard for legal analysis of the effect of ANCSA on Alaska Native tribal rights is the traditional principle of federal Indian law that "statutes passed for the benefit of dependent Indian tribes...are to be liberally construed, doubtful expressions being resolved in favor of the Indians." (p.72).

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*Documentation — all page numbers refer to Price, Robert E. 1982. Legal Status of the Alaska Natives, a Report to the Alaska Statehood Commission. State of Alaska, Dept. of Law.

Out of Doors in Alaska, April-June 1986 —

Opinions vary:

ANCSA and tribal powers

From: WORKSHOP ON "1991 AMENDMENTS" — Juneau, AK 3/7/86 — An exchange between Senator Ted Stevens (AK-R.) and AOC editor, Mary Bishop.

Bishop: So essentially you're saying that from now on we can never say that the Alaska Native Claims Settlement Act affected — in any way — the governing authority of IRA councils or traditional councils.

Stevens: That's right. As a matter of fact, I think it specifically said so then. But some people want it now. The land claims settlement act had nothing to do with sovereignty itself.

...I'm telling you again, there is nothing in the ANCSA that dealt with IRA councils or their powers or their status.

Contrary to anyone's assertion that we did, we didn't. Those of us who were there will tell Congress we didn't intend to — and I believe that Congress will keep that in there (Section 7) because we didn't intend to. But there are a lot of people running around saying we did — and we didn't.

• • •

From: NATIVE AMERICAN RIGHTS FOUNDATION (p.69-70)*

However, serious exception must be taken with the basic premise of finding that the ANCSA did not intend to nor has it affected the sovereign powers residing in the Alaska Native Communities. Although the ANCSA did not terminate Alaska Natives with respect to their eligibility for federal services based on their status as Natives, it is wholly inaccurate to say that the Act did not alter, in any way, the legal nature or status of Alaska Native tribes. The Alaska Native Claims Settlement Act specifically:

1. expresses a policy against creating reservations, wardships, or racially defined institutions;
2. terminates all hunting and fishing rights;
3. unilaterally revokes all reservations except Metlakatla;
4. provides for state taxation of Native lands after 1991.

The Act, in effect, de-emphasizes the role of Native Village governments by preventing their ownership or control of any substantial portion of the 40 million acre settlement.

• • •

From: AMERICAN INDIAN POLICY REVIEW COMMISSION (p.68)*

Although, technically, the Alaska Native Tribes still possess a number of sovereign powers relating to the governance of territory (e.g., to regulate hunting and fishing on tribal domain), these powers are largely in abeyance at the present time because the tribes currently do not possess tribal domains. **However, were the United States in the future to set aside or acquire land in trust for an Alaska Native tribe, all of the slumbering powers of that tribe pertaining to the governance of territory would immediately rejuvenate.** (emphasis added).

*Documentation — all page numbers refer to: Price, Robert E. 1982. Legal Status of the Alaska Natives, a Report to the Alaska Statehood Commission. State of Alaska, Dept. of Law.

Out of Doors in Alaska, April/June 1986 —

Native regional corporations protect shareholders from '7(i)' sovereignty claim losses

by Mary Bishop

The current State administration may not be concerned about Alaska Native sovereignty. But Native corporation leaders are. This is apparent within provisions of the amendment package to the Alaska Native Claims Settlement Act (ANCSA).

These proposed amendments, supported by the Alaska Federation of Natives, were recently introduced into Congress by the state's Congressional delegation as S.2065 and H.R.4162.

This sovereignty concern relates to the original 1971 ANCSA where there is a sharing requirement — Section 7(i). This part of the original ANCSA requires that 70% of all revenues acquired from timber and subsurface resource development must be shared among the twelve regional Native corporations.

Now, the reader might bear in mind that a sovereign entity cannot be sued — unless it formally waives it's sovereign immunity.

Proposed Section 5 would amend ANCSA to allow Native corporations to transfer or convey some or all of their assets to a "qualified transferee entity" that must have Native membership only — certainly a "tribe" in the legal sense. However, the amendment requires that:

> "Prior to receiving a conveyance of an asset subject to section 7(i), a qualified transferee entity (tribe) shall agree in writing...to waive its sovereign immunity, if any, with respect to any claims under section 7(i)..."

Without a waiver of sovereign immunity, Native corporate leaders recognize that it's likely a tribe could not be sued if it claimed sovereign immunity and refused to share 7(i) profits with regional corporations.

Additional concerns about sovereignty are apparent in the proposed Section 9 of the amendment package. Here a regional corporation could convey any subsurface estate to a village entity which owns the surface estate — presumably a village corporation. But, again, the amendment stipulates that:

> "Any conveyance under this paragraph shall be subject to the ("waiver of sovereign immunity" and other) provisions...as if the village entity were a qualified transferee entity (tribe)."

In addition, the various immunities provided by Section 10 of the amendment package do not apply to any judgment or award arising out of any claim regarding revenue sharing under ANCSA's section 7(i).

Native corporation leaders know we are headed down the paper trail to a court justification of village sovereignty. They are protecting their corporate interests — and rightly so.

Meanwhile, the current state administration does nothing to protect the interests of the state.

Senator **Wallop**. Thank you.

Mr. Waugaman.

STATEMENT OF WILLIAM WAUGAMAN

Mr. **Waugaman**. I don't have any prepared text today. But I have been an Alaskan for 46 years. I live in Alaska because I like Alaska, I like to live here.

But when I first came here, Alaska consisted of about 60 some-odd thousand people. Since that time, we have grown considerably and we're approaching the half-million mark.

Back in those days, Fairbanks was less than 3,000 people, Anchorage was less than 3,000 people, Juneau was about 1,500. And, naturally, we had villages that were smaller than they are now. And we all got along fine together until the time that we struck oil in Alaska.

When we struck oil in Alaska, everybody wanted a piece of the action. The Natives community of Alaska saw an opportunity to get a lot of land, a lot of money. And it was their greed that held us hostage in holding up the pipeline.

We finally got the pipeline—not for the Alaskans so much as it was for the people down in the old country. But since that day, everything has gone downhill.

Frankly, Alaska would have been much better off had we not ever struck any oil. I like the old Alaska a lot better.

I think the Indian Land Claims Settlement Act was a mistake. I think all the amendments that ensued thereafter are mistakes. And I think this one is a mistake.

The people who are living in the cities—so-called cities in Alaska nowadays, are being discriminated against, and some of us are sick and tired of it.

The Native has been made a special person, the people that live in the hinterland is a special person. If you're living in Fairbanks, Anchorage, Juneau, Ketchikan, you can't go out there and hunt in these places where you have been used to hunting and fishing and trapping and so on. And all of this has been caused by our Congress. They're splitting the people of Alaska right down the middle. And instead of making it worse, I think our Congress should start trying to make it better.

ANILCA and ANCSA were both sold to the people of Alaska with great promises. Ted Stevens promised all kinds of things; hasn't produced one—not one thing.

We have got a hell of a mess on our hands, but I don't know what you people are going to do about it. It is a darn shame that such a thing would happen to a great country like Alaska.

That's about all I have to stay.

Senator **Wallop**. Thank you, Mr. Waugaman.

Mr. Stephenson.

STATEMENT OF MICHAEL STEPHENSON

Mr. **Stephenson**. Thank you, Mr. Chairman, and Senator Murkowski.

My name is Michael Stephenson. I have been a resident of Alaska for 15 years. I have a home in the Knuti Wildlife Refuge, 175 miles northwest of Fairbanks and 40 miles south of the Village of Allakaket.

For 13 years I was a self-employed log homebuilder in Fairbanks. I am currently employed as a law clerk in the firm of Downes and McKelvie.

As everyone knows, there is no shortage of material available to anyone interested in studying the issues involved in the proposed amendments to ANCSA.

I have read both sides of this issue and have attended conferences and forums by the supporting and opposing factions. My testimony today is in support of the proposed 1991 amendments to ANCSA, and I urge the committee and the Senate to pass these amendments.

Like most Alaskans, I have enjoyed the experience of living side-by-side with the Native people of this state and the opportunity of having my own life enriched by the wealth of Native heritage and culture.

My own years of living in rural Alaska has given me a special appreciation for the strength and richness of Alaska Native culture, and I consider Alaskans fortunate for the opportunity and experience we all enjoyed by virtue of the Native peoples' dedication to the preservation of their identity and traditional culture.

This is not to say that I think we live in the past in Alaska or that I think we can. Nor do I think that is what the Native people think or necessarily want.

For better or worse, we cannot deny the age into which we are born, and all we have, all any people ever had is the present. But the present as we know slips all too quickly into the past, and many good things of today are lost on tomorrow.

We, in Alaska, and in the Nation as well, have already lost too many valuable cultural assets in our headlong rush to lose our past.

In reconsidering the Settlement Act and the implications of the proposed 1991 amendments, the Native people, the State and the Nation stand on the threshold of a major choice with regard to whether or not the promises of ANCSA will be fulfilled. And those promises, as I understand them, do not involve acres or dollars, but rather people.

More specifically, those promises involve whether or not Native Alaskans will be given the resources and protection they need to survive as a people as they existed prior to the settlement and as they have every right to expect they would be allowed to exist, if they chose, into the future.

Dollars and acres were simply some of the means employed in the implementation of the promises of ANCSA. The end was the promise to the people of survival as a people, nothing less.

There can be no other justification or rationale for the massive grants of land, the huge sums of money, and the sophisticated and complex economic and governing structure which were created than the attempt to recognize and structure for survival the Native Alaskans as a people, unless the whole process was a charade, a gambit, to allow corporate America to get its hands on the oil fields and the pipeline corridor without lengthy court battles to exhaust or extinguish aboriginal claims, while hedging a bet that the Natives of Alaska couldn't survive the predatory realities of the corporate struggle for survival and the temptations of alienation after 1991.

There are many Alaskans, unfortunately, who thought this was so. There are many more who perceived ANCSA as a simple dimestore transaction with 44 million acres, a little short of a billion dollars and the drug store Indian thrown in with the bargain. These persons refuse to understand and cannot be convinced of the special and unique status Native Americans have by virtue of their pre-established existence on this continent.

The promises of ANCSA without the necessary means and protections for survival of Alaska Natives as a vital political and cultural entity would have been an empty promise.

Alaska Natives could have been given all the lands and treasury of the State and could not have survived for long without the very protections they are now seeking in the amendments to ANCSA.

Fortunately, Senator Siberling and others on the Committee on Energy and Natural Resources, as well as the Alaska congressional delegation, recognize and acknowledge the promise made to the Alaska Native people and the obligations assumed by the people of this Nation and this State in accepting the settlement of all aboriginal claims against lands not received by the Native peoples.

That the original Act was flawed is to be expected, given the novel issue and solutions which were involved. The amendments to ANCSA as proposed by the 1991 amendments address and correct many of the flaws in the original legislation.

Those who oppose these amendments are using the convenient smokescreen of the issue of tribal sovereignty and misusing scare tactics such as Indian Country and apartheid. These actions are unfortunate and represent an attitude reprehensible in its undisguised inability to acknowledge the largeness of our own settlement and completely unwilling to recognize the Native Alaskan's right to exist as a cultural and political entity and to share in the fruits of this bountiful State.

This Nation and all of its citizens continue to pay the tragic price of our historically avaricious treatment of Native Americans. I urge this committee to look beyond the self-serving rhetoric of the opposition to the 1991 amendments and to accept our congressional delegation's support for these amendments as the voice of the majority of the people of the State of Alaska.

Senator **Wallop**. Thank you, Mr. Stephenson. [Applause.]

I will ask that the room be cleared. This is a hearing for which the purpose is to collect testimony and not to collect accolades. There are people who agree or disagree on both sides. And I will not have this hearing turned into one where we have a cheering contest on either side.

Mr. Alan Jones.

STATEMENT OF ALAN JONES

Mr. **Jones**. Thank you, Mr. Chairman, Senator Murkowski.

I, too, wish to relinquish my time to Dr. Sam Harbo.

Senator **Wallop**. You wish to have your time given to somebody who is coming on?

Mr. **Jones**. Yes, sir.

Senator **Murkowski**. He's been on already.

Senator **Wallop**. Well, he's been on already, and I'm not going to have anyone come back.

Mr. Steve Cline.

[No response.]

Mr. Jim Whisenhant.

STATEMENT OF JIM WHISENHANT

Mr. **Whisenhant**. Mr. Chairman, my name is Jim Whisenhant. I am representing myself as a concerned citizen.

I think I speak for the concerns of many Alaskans in that in 1971, many of us were led to believe that the 1971 Alaska Native Claims Settlement Act was just that, a settlement act. And that our congressional delegates in Washington, through the media, led us to believe that the special relationship between the Native peoples of Alaska and the Federal Government would cease.

We are being told now by many that this was not the case; that it has not ceased, that it did not do away with sovereignty or tribal government.

We are also now being led into a process of changing the rules of the 1971 agreement. If we want to continue or if we want to create animosity between Alaskans, this is an excellent way, to do it. We are in the process of building up animosity that will last for years and years and years.

This is a very complex amendment. It takes a great deal of study. I studied the amendment, I do not understand all of the ramifications of it, how it's going to affect taxation, how it should affect taxation, access, game management, the aspects of government, the legalities of it.

Alaskans need time. I can see no reason why action should be taken on this amendment immediately. I would encourage this committee to delay action to give all Alaskans a chance to study the amendments, to debate them, to evaluate what the ramifications are going to be.

Too many mistakes have already been made, there is no point in us making another. Thank you.

[The prepared statement of Mr. Whisenhant follows:]

23 May 1986

Public Lands, Reserved Water
and Resource Conservation
Subcommittee

Dear Mr. Chairman,

Many Alaskans, including myself, were led to believe that the 1971 Alaska Native Claims Settlement Act was, in fact, just that - a settlement. We were led to believe by our Washington delegation that by 1991 all Alaskans would be on an equal status. We would move into the future as Alaskans with equal privileges and obligations. Our state has been, and will continue to be, divided in a subsistance hunting controversy left by Congress. Now, we are being told that the Alaska Native Claims Settlement Act did not settle such issues as tribal government, and village sovereignty. We are starting to feel that we have been deceived by our political leaders in Washington in whom we put our trust. The question must be asked, what did the 1971 Alaska Native Claims Settlement Act actually settle?

Most any student of human nature knows that when laws are created giving special privileges or considerations to individuals or groups because of race for an indefinite period of time, racial strife, mistrust, disunity, and resentment will occur. If a debt is owed, that debt should be determined and settled. Settlement of a determined debt, to my understanding, was the purpose of the Alaska Native Claims Settlement Act.

The 1991 Amendments are complex in the potential influence of the future of our state. Probably not one Alaskan out of one hundred has a meaningful understanding as to what the 1991 Amendments are all about. We have been exposed to these amendments for only a short time; yet we are told that Congress wants to take actions by October 1986. I have studied the amendments and have difficulty absorbing the complex issues involved. How does Congress, or this committee, expect Alaskans to respond in such a short period of time? Why is there such haste to act on legislation that could be postponed until 1987 or even 1988?

I would encourage this committee to recommend that any action on these amendments be postponed until all Alaskans have had ample opportunity to review, to discuss, and to debate these issues.

Sincerely,
Jim Whisenhant
Jim Whisenhant

Senator WALLOP. Thank you, Mr. Whisenhant.

Mr. Dave Lacey.

STATEMENT OF DAVE LACEY

Mr. LACEY. My name is Dave Lacey, and my address is Box 81765, College. I'm representing myself.

I'm here to give testimony in opposition to S. 2065 as it is written now. I'm opposed to this bill on human rights' reasons. I'm a member of Amnesty International and am concerned about human rights around the world.

A violation of human rights anywhere around the world is an injury to humanity. I feel that this bill is a violation of the human rights of the indigenous people of Alaska.

What is going on here in Alaska now is what has been happening in the Americas since Columbus came. Indigenous cultures and people have been destroyed. We need cultural diversity and not cultural monotony.

The racist attitudes that have shown themselves here in Alaska in opposition to the human rights of the aboriginal people is shocking and troubling to all concerned citizens determined to protect everyone's rights, because who knows who might be next.

The three tenants of aboriginal human rights needs to be safeguarded here in Alaska; they are the right to land, self-determination and subsistence.

The people in Alaska need have the same Federal land protection that the tribes in the lower 48 have.

Congress needs to affirm the Federal relationship with Alaskan tribes. The people need to be able to determine what form of government that they want within the context of their own culture. The ancestors did not come to America because of the American form of government here, like many of ours did.

Finally, the people need to be able to protect their subsistance industries by having their lands have the status of Indian Country.

Let's end all of this costly litigation and take care of an issue properly now that is not going to go away.

It will be the best for all Alaskans and the world for the human rights of the aboriginal people here to be respected.

And finally, I would like to read a quote from Anatoly Shcharansky that was in an article here in the Wall Street Journal last week. As you know, he was in the Gulog for many years and fasted also, and is one of the leading human rights' spokesmen in the world. And he stated when he was in Washington here last week: We must every day decide for ourselves if we are ready to listen to the voices of the pragmatists, the realists who say there is no sense to continue the struggle. I have understood from my experience that there is nothing impossible if you feel a strong spiritual connection to your land, with your people, then nobody can ever isolate you. Thank you.

Senator WALLOP. Thank you, Mr. Lacey.

Mark Ringstad?

[No response.]

Senator WALLOP. Mary, would you care to give your statement, inasmuch as Dr. Harbo has already testified?

Ms. BISHOP. My concern is that there has been a great deal of exchange between those people—today, between those people who support the bill and there's been very little exchange between those of us who do not support certain aspects of it. For that reason, and, because Dr. Harbo is extremely knowledgeable on the bill, I gave up my time so that he could have that kind of an exchange with you. I don't see you having that kind of an exchange with anyone else and I would like to see it. Thank you.

Senator WALLOP. Thank you very much. Well, it's unfortunate that he's already testified, that leaves us in an unusual circumstance.

Ms. BISHOP. Well, would you be willing to have that kind of an exchange with someone else that has not yet testified—myself?

Senator WALLOP. Well I have, only those who have sought to become witnesses in front of me. If anybody wishes to represent that point of view they're entirely welcome to. We have had all kinds.

Ms. BISHOP. What I'm referring to is that for 30 minutes—and I timed it, and it might have been over 30 minutes, there was a very meaningful exchange between Senator Murkowski and mainly Morris Thompson, and there was good exchange of information in there, and I would like to see a similar exchange on the same topics between someone who might have a slightly different point of view.

Senator WALLOP. Well, I have no control over how anybody questions witnesses. I can't say that Senator Murkowski is obliged to have 20 minutes of exchange. If he wishes to question people, it will certainly take place.

Senator MURKOWSKI. I would like to perhaps try and clarify the concern, Mary. Obviously the questioning is an option of the Chair. If you feel slighted because that particular type of question was not presented to others, why I would apologize. The specific line of questioning to the gentleman on that particular panel, where they were representing their regional corporations, which represented many hundreds, and in some cases thousands of people, occurred because I was interested specifically in the four areas of consideration. One is the 1991 transferability issue, which everybody, I think without exception, has generally not had any specific negative comments to. The second one was the right of those born after 1971. Obviously, that's a question that concerns those recipients of stock as to whether they want to share it with their children.

Now, the other two issues, of course, are of concern to all Alaskans, the question of taxation, and, lastly, the question of transferring assets to other entities.

And I felt that from the standpoint of the pro and con, we explored those—not from the standpoint of whether they were for or against them, but more specifically, the aspects of just what is meant by taxation on revenue-producing land vis-a-vis nonrevenue producing land.

It was my suggestion that the local government entities make themselves heard on these issues because they're the ones that are affected within the borough in the sense of land that's in the borough receiving services of the borough, should it be taxed or shouldn't it. This is the whole point of the hearing. And, of course, the question of transferability of other assets gets us into this whole myriad of questions about sovereignty, the implications of Indian land, IRA's and so forth.

I would not know what to address to Dr. Harbo that I hadn't already asked in the sense of exploration of the questions.

Ms. **Bishop**. Could I explore those same issues with you briefly?

Senator **Murkowski**. I would defer to the Chairman. But since you haven't used your 3 minutes, I guess you may.

Senator **Wallop**. But the problem I have is that you had a very good statement, and it's hard to explore issues if you aren't willing to give it. If there's something that you wish to bring up that hasn't been up, that's the purpose of testimony.

Ms. **Bishop**. I would like to suggest that if there is truly no intent to address the sovereignty issue that that statement be placed in the intent section of the bill where it is not.

There's nothing in the bill right now in the intent section that indicates there is no intent to address or change any aspect of sovereignty.

It's an amendment to a 1971 bill, it's not in the intent section of this bill. In regard to taxation and the land bank; in the land bank in ANILCA right now, there are obligations as well as benefits.

One of those obligations very succinctly is that all lands in the land bank are under the civil and criminal jurisdiction of the State of Alaska. That's in ANILCA, it's written down there.

If we amend it according to the proposed amendments, all those lands receive automatic immunity from taxation and creditors' rights unless they are judged to be developed. They're automatically immune from creditors' rights and taxation unless they are judged to be developed by the taxing authority or the creditor.

And they may be fine under your normal definition of development, but when yu say that structures and devices that are used to further customary and traditional use or subsistence use—and we have no definition of subsistence use—it's customary and traditional to live in your home, so if it's a $100,000 home, they're receiving borough benefits, is it therefore nontaxable? Subsistance doesn't mean outside of boroughs. A subsistence priority relation to hunting and fishing is all over the entire state, it's not just outside of boroughs. So we have no—this taxation, we haven't defined it. The taxation of undeveloped land is find by me as long as it's under the land bank where it remains in the civil and criminal jurisdiction of the State. And I would certainly be amenable to amending ANILCA so it would be easier to get lands into the land bank. I understand it's pretty difficult to do so.

But there are a lot of fine points in here. And removing obstacles to sovereignty—what would happen, for example, if a corporation begin to feel like it's going under, like it might be thinking about bankruptcy, it's getting into trouble and so it decides to transfer all of its lands and assets to a tribal council and then it goes to court and says we're a tribal council, this is Indian country, you can't touch it? We're going to have a huge batch of court cases because of that. And the first one that wins, all those other corporations are going to be in real trouble because nobody is going to want to do business with them.

Senator WALLOP. Well, you may have heard me explore that very concept with Mr. Williams. I mean, it's clearly a concept that has to be examined. But that's, of course, what the purpose of gathering here is and why I don't want to turn this into a question of cheering for one side or the other, because it takes away from the purpose we gather for.

You know, what you have raised has been raised, and it is of concern to both of us and certainly will be to the committee when we do it. But the holding of this hearing is not a rubber stamp of the bill as it lies on the table in front of us so that we go back to Washington and it's immediately law tomorrow.

Ms. BISHOP. I sure hope you do take your time on it.

Senator WALLOP. Well, as one can tell, there is some controversy, a lot of which may never disappear, but some of which may be resolvable. And then that's, of course, always a judgment.

Let me just say to you, Mr. Stephenson, you have your opinion and you're entirely welcome to it, that's your right. But surely you agree with the fact that others can have theirs.

Mr. STEPHENSON. Absolutely.

Senator WALLOP. And, Mr. Lacey, some people in this room are saying this is the means by which it goes too far towards transfering those rights. You're opposed to it altogether. What would you have us do?

Mr. LACEY. We, I made the recommendation that the land that is transferred, if it is, to have the same status as Indian Country.

Senator WALLOP. Well, in essence, that's what's making some people upset because it goes too far towards doing that. Whether it succeeds or not, at least that's its purpose, as I understand it.

Mr. LACEY. Right. Well, I'm just trying to respect basic tenants of internationally-established law as far as dealing with the indigenous people is all.

Senator WALLOP. Well, international law, my friend, is a concept not a law.

Mr. LACEY. Right.

Senator WALLOP. There's no place where international law is enforced. What we're trying to deal with here is U.S. law.

Mr. LACEY. Right. Well, international law concepts, too.

Senator WALLOP. Well, we thank you all.

Senator MURKOWSKI. Mr. Chairman.

Senator WALLOP. Yes.

Senator MURKOWSKI. I would just like to emphasize with regard to Mary Bishop's response and statement, this is the very thing that we're looking for in the hearing process, for your points of view with regard to your sensitivities on specific portions of the bill.

You mentioned why not eliminate the sovereignty issue. That's certainly a legitimate observation; one that's been put forward by many.

You know, if you review the areas of agreement and disagreement here, you generally find agreement on the extension of 1991; you generally find agreement on those children born after 1971.

Where we get into areas of definition, obviously, it's in taxation, and, obviously, on transfer of other assets or sovereignty.

So what you're doing is just what we want for the record. We want the input, the specific point of view. And I commend you and I'm very happy that you did testify in the manner of expressing this. I'm sorry there was some confusion in the process here or the way we question witnesses. We were trying, you know, to bring out a point, and then that point is made as opposed to whether one seems to be taking sides just because one is questioning a witness that has a particular point of view, that's certainly not my intent.

I want to correct, I believe it was page 2 of Mr. Stephenson's testimony, it's Congressman Seiberling. And this is the Committee on Energy of the Senate, and the Congressman has a function on the Interior Committee, which takes up these matters in the House.

Thank you, Mr. Chairman.

Senator **WALLOP**. Thank you all very much, we appreciate it.

Now Panel 8, Janet Emerick, Dot Lake; Shirley Lee, Evansville, Inc.; Theresa Clark, Gana 'A Yoo; Nels Petersen, Gwitchyaa Zhee; Gabriel Nicholi, Hee'Yea-Lindge; Ruth Ridley, Hungwitchin; Larry Edwards and Rudy Chase.

The next panel after that, if they would come forward, would be: Dick Randolph, Tom Scarborough, Mr. Robert Fox, Bill Silas, Tom Maher, Roger Nash, and Ronald Alan Brooks. If you all would come up while I take care of this panel, please.

Now, I have got only two of the seven members of the panel. You will have to identify yourselves for me.

Ms. **LEE**. This is Janet Emerick, and I'm Shirley Lee.

Senator **WALLOP**. OK, Ms. Emerick.

STATEMENT OF JANET EMERICK, DOT LAKE NATIVE CORP.

Ms. **EMERICK**. I am Janet Emerick from Dot Lake Native Corp., Dot Lake, Alaska; a little village of approximately 25 shareholders, and it's along the Alaskan Highway.

I am testifying in favor of S. 2065. The people of my corporation really need these amendments of ANCSA which are contained in S. 2065.

If the Congress fails to pass these amendments, our people may well loss all control of our village land. All we have left is 92 thousand acres of lands we originally owned. This is our share of the ANCSA settlement, and we are extremely concerned about protecting that land after 1991.

The first danger to our lands is through the loss of stock in our corporation. The thing most people don't understand is that Natives don't own their ANCSA lands directly.

The ANCSA lands are a corporate asset, owned and managed by the village and regional corporation. What we have as individual Natives is stock, and if we lose that stock, we lose control of the corporation, and that will be the final loss of our land.

So the people of Dot Lake support the right of Alaskan Natives to continue the restrictions on their stock until they decide when to open it up.

I am the parent of two children born after 1971. I was enrolled because I was living on the day ANCSA was passed, but my children have never been enrolled. The only way that they can get stock in these corporations is through inheritance, and this situation can really cause resentments in the future and every Native family is going to have to deal with this.

Mr. Chairman, I thank you for the opportunity to testify, and I strongly urge your Committee to take serious consideration of all the amendments to ANCSA contained in S. 2065.

Senator WALLOP. Thank you.

Shirley Lee.

STATEMENT OF SHIRLEY LEE, PRESIDENT, EVANSVILLE, INC.

Ms. LEE. My name is Shirley Lee. I'm President of Evansville, Inc., a small village corporation for the Village of Evansville, which is in the Brooks Range.

I'm here today on behalf of Evansville, Inc., to state our support for S. 2065. Congressional approval of these ANSCA amendments would help ensure the continued existence of the Native people as governors of their own land and culture.

In general, we support the positions of Doyon, Limited and Tanana Chiefs.

The purpose of the amendments is to give options to corporations so that they might better protect what was originally taken from their ancestors.

ANCSA attempted to return our lands, but did so with the creation of corporations; vehicles which we as Natives, if you will pardon the expression, are still learning to drive. I don't think we will even get the hang of it within 20 years. It's quite difficult.

Much has made of what has come to be known as the sovereignty issue. The 1991 legislation does not address that matter. Section 7 of S. 2065 clearly states that the 1991 legislation does not diminish or enlarge or in any way affect sovereign powers.

We, as a Native corporation, do not intend to use this bill as a means of establishing a tribe within Evansville. That is not to say sovereignty is not a forgotten issue. I'm just stating that this bill here does not address it.

We believe the bill to be neutral on this matter. We support stock retention by Natives for Natives. We know it's a very moral question to say that we do not wish non-Natives to inherit stock, but to ensure the longevity of our corporations, we would be able to abide by that.

To allow stock to become unrestricted and to go on the open market would be allow outside control over our land, and, thus, our lives.

We support a high standard of passage by stockholders, shareholders to unrestrict stock, if allowed by these amendments.

We also wish to include our youth born after 1971. Our corporation has originally 82 shareholders, and presently there are 79 living. Of those shareholders, there are only six minors in our corporation. And, as you can see, just based on life-span of our shareholders, we don't have much longevity.

We're also concerned about land protection. Currently, as you all know, land banks realistically are not working. In truth, the implementation of land banks, not them themselves.

Continued land protection is essential. I have grown quite concerned over these comments I have been reading in the paper and hearing here, that people believe that hunting and fishing rights will be taken away from them. I believe these people are forgetting that this is private property. And we have run into that in the past also, with people not regarding corporate land as private property.

In closing, we urge Congress to amend the inadequacies of ANCSA in ordre to protect—in order that we might protect our Native land and heritage. Land protection, stock retention, and the inclusion of our children born after 1971 are important to us. And to achieve those goals, this bill should be passed.

Thank you.

Senator WALLOP. Thank you, Ms. Lee.

Has Theresa Clark come into the room?

[No response.]

Senator WALLOP. Nels Petersen.

[No response.]

Senator WALLOP. Gabriel Nicholi.

[No response.]

Senator WALLOP. Ruth Ridley.

[No response.]

Senator WALLOP. You're here to testify for Larry Edwards?

VOICE. I'm testifying, not for Larry Edwards. I would like to testify.

Senator WALLOP. I thought you were going to testify for him.

VOICE. No. I said may I take this place.

Senator WALLOP. Perhaps at the end of the day if we have still got a place, I'll let you testify. As I understood "taking his place" meant testifying in his behalf.

VOICE. No. I meant taking up his 3 minutes.

Senator WALLOP. No. Well, if we have time at the end of the day, I'll entertain witnesses of any dimension, but I think I had better stick with the schedule for now. I appreciate it. Don't run off, we will have a chance, I'm sure.

I would like to explore some things with you, Shirley Lee, just a second. Is it a conceivable event, that your corporation has 79——

Ms. LEE. Living shareholders.

Senator WALLOP [continuing]. Living shareholders. And six children?

Ms. LEE. There are six minors.

Senator WALLOP. Is it a conveivable thing if stock is not transferrable in some diluted way, that there would become one shareholder over the course of time of all of that stock?

Ms. LEE. Well, I could see the corporation virtually dying away.

Senator WALLOP. But then to what end?

Ms. LEE. Well, I just wanted to stress that dilution of stock, if allowed, we would rather see the benefit of including our youth. I mean dilution isn't our main concern, it's including our youth.

Senator WALLOP. You do wish to, or do not wish to?

Ms. LEE. I'm saying if we could include our youth, dilution of our stock wouldn't be a problem.

Senator WALLOP. But it does dilute it, doesn't it?

Ms. LEE. Yes, it does.

Senator WALLOP. But that's all right. I guess I was misinterpreting what you were saying then. I thought I understood you to say that you did not want it to be diluted.

Okay, I understand that. That's fine.

Frank, do you have questions?

Senator MURKOWSKI. I would like to just touch, Shirley, on the point that you brought out on the private land aspect. Which is, of course, something that is relatively new since the regional corporations received their land and the enforcement of the concept of what private ownership means with regard to inaccessability and non-use of the land by those that are not members of the corporation.

And this, of course, is part of the concern over the issue that is tantamount with sovereignty, even though the two issues are separate. The question of access and utilization of private land is separate and aside from the issue of sovereignty, yet it is often caught up in the emotional arguments associated with it.

And as we have seen the transition within Alaska of one land mass, where everybody, theoretically, has access and some utilization. Now, we have a substantial block of private land, which is the 40 million acres that the regional corporations received, and the 120 million acres that the State land have, where everybody, theoretically, has an equal access.

And I simply point this out for the record, that we have now a significant private landholder that can, under the law, dictate the terms and conditions of access of that land, whether they want to let other Alaskans have access or limit it just to the participants of their own regional corporation. They can do either one.

Ms. LEE. Can I respond to that?

Senator MURKOWSKI. Surely.

Ms. LEE. First of all, the 44 million acres aren't one block of land, it's quite scattered. And as we are all aware, all the corporations were mandated to provide the easements, make access available to the general public. And I'm not an Indian law expert, and I, quite frankly, S. 2065 was quite confusing for me to read. I would like to reiterate Mary Jane's comment that it—that I hope it would be more readable in the future.

Senator MURKOWSKI. We've got too many attorneys.

Ms. LEE. But if and were conveyed to a tribal government, I don't think the Native peoples would just automatically cut off access to public properties.

No one has ever discussed it, and it may be something to think about.

Senator MURKOWSKI. I wonder, Janet, if either one of you would comment on your opinion as to whether or not you feel the shareholders of your corporation would want to give up their stock ownership for the presence of an association, which is, theoretically, a reservation concept or anything else; in other words, you give up your interest, which is represented by the value of a share of stock as part of your inheritence and the ability to pass on to your children for the assurance that everybody would belong to whatever entity was an outgrowth of that?

Either one of you. It's a question that continues to come up.

Ms. EMERICK. Having been involved in the corporation to a certain extent to the stock transfers and things like that, I am aware of the fact that we do have a lot of the stock in the hands of non-Natives. And I rather doubt that those persons would designate the

Native person to inherit their stock. I'm sure it would go to more—to whoever else comes into their life. You know, they might have other children, remarry or whatever.

Being from the small village, the Village of Dot Lake, it's a big concern, because we are so small. Our main concern has always been that we have the right to the land around the village, to the traditional hunting, fishing areas of the area. And even though I personally do not live there any more, I do take my children there. My parents still live there. There is really no economic base in Dot Lake to support my living down there. And so I am forced to come here to live. And yet, I do travel back to the village. I do go back to the traditional hunting and fishing areas.

And I think that basically, that's my main concern, is that the control of the lands stay in the hands of the Native people for the purpose of maintaining their traditional lifestyle.

Senator **MURKOWSKI**. Thank you.

Senator **WALLOP**. Thank you both very much. We appreciate your coming.

Panel 9: Dick Randolph, Tom Scarborough——

Mr. **VOGEL**. Charles Vogel, representing Dick Randolph.

Senator **WALLOP**. Representing——

Mr. **VOGEL**. Dick Randolph.

Senator **WALLOP**. Okay. Robert Fox, Bill Silas, Tom Maher, Roger Nash, Ronald Alan Brooks.

Before I call on you to begin testifying, let me see who the 10th panel would be. Ernie Holmberg, President of Mint, Limited; Gary Lee, President of Mendas Chaag——

VOICE. He won't be testifying.

Senator **WALLOP**. He will not be.

VOICE. He's home babysitting. [Laughter.]

Senator **WALLOP**. Rosemarie Maher, Richard Frank, Bob Brean, Winston James, Winnie Atwood, Julie Roberts and James Walker. If you would sort of make your way up while panel 9 begins.

Mr. Vogel, for Tom Scarborough.

STATEMENT OF THOMAS N. SCARBOROUGH, AS PRESENTED BY CHARLES VOGEL

Mr. **VOGEL**. I was asked by Tom Scarborough, who had to be at a meeting at twelve, to submit his testimony. You have the copies in hand.

I would just like to reiterate his conclusion in this, which he quotes,

> S. 2065, as written, has the potential of changing the social, economic and political face of Alaska forever. There is sufficient time left before 1991 to proceed in a responsible manner. Let's not rush into a situation that all will regret in the future. Control of billions of dollars of resources and land as well as the social and economic lives of all Alaskans are at stake.

I want to thank you on behalf of Tom for allowing him to submit his testimony.

[The prepared written statement of Mr. Scarborough follows:]

TESTIMONY OF THOMAS N. SCARBOROUGH
1676 Taroka Drive, Fairbanks, Alaska 99709
before the Subcommittee on Public Lands and Reserved Water,
May 24, 1986 in Fairbanks, Alaska.

Subject: S 2065

I would like to thank the Honorable Senators Malcolm Wallop and Frank Murkowski for taking the time from their busy schedule to hold these hearings today. These Amendments to the Alaska Native Claims Settlement Act (ANCSA), referred to as the 1991 Amendments, are of critical importance to the future of all Alaskans and the greater United States.

I am very concerned with the urgency with which it appears this legislation is being pushed. 1991 is five years away. The issues raised in S 2065 are of such great importance, they must be fully understood by those affected, meaning all of us, native and non-native.

As I read and better understand the impact of these Amendments, it becomes very evident to me that the original intent of ANCSA will be altered for the benefit of a few Native Corporate leaders and to the detriment to everyone else. It appears the intent is to go backward in time and establish Indian lands and Reservation status for Alaska's Native people. The gross failure of the Reservation system in the lower 48 states is well known. Good progess is being made to integrate Alaska's native people into our free enterprise system. It seems absurd to redirect that goal back to a communal ownership system controled by a few very powerful individuals.

In addition it appears it is the intent of S 2065 to obligate the US Government to a much greater trustreeship responsibility with the Alaska native people. Along with this will come a monetary commitment as well. This obligation appears to be very substantial and may increase the current commitment by multimillions per year. This impact must be throughly understood by all those impacted by S 2065.

S 2065 as writen has the potential of changing the social, economic and political face of Alaska forever. There is sufficient time left before 1991 to proceed in a responsibile manner. Lets not rush into a situation that all will regret in the future. Control of billions of dollars of resoures and land as well as the social and economic lives of all Alaskans are at stake.

Thankyou for this opportunity to submit testimony on this critical issue.

Thomas N. Scarborough

Senator WALLOP. Thank you, Mr. Vogel.

Is the thrust of that—I haven't had a chance to quickly review it—that it benefits the Native corporate leaders and as to the detriment of everyone else and it's pleading not to go into the reservation system? Is that it?

Mr. VOGEL. I believe that Mr. Scarborough is asking for a reasonable amount of time to look at the impacts of what the 1991 or any other amendments will have on all Alaskans, whether they're Native of non-Native, and the political and economic impact it's going to have on the future of all Alaskans.

And I think he will present other evidence or other testimony if your questions could be directed to him in a letter form. He will be more than happy to answer those questions for you.

Senator WALLOP. Thanks, Mr. Vogel.

Mr. Fox.

STATEMENT OF ROBERT FOX

Mr. FOX. Thank you.

My name is Robert Fox. I'm opposed to the 1991 amendments, as they're written, and without further consideration of all the implications that these amendments have for all Alaskans.

I have some grave concerns for possible situations that can arise because of these proposed amendments, and I feel that both sides should be considered much more carefully before any of these proposed changes are to become law.

When the reasons for the amendments are viewed, it should be noted that above all else, everyone knew that there would be problems; that this was supposed to be, in fact, a final settlement.

These proposed amendments not only open the door to a few changes now but more later, probably much more drastic than those proposed now.

Sovereignty is an issue, much more than the Natives and their lobbyists would like us to believe. To see this, we have to look no further than the Tyonek Village, where the white man certainly became the second-class citizen or, in fact, no citizen at all.

Our present state government has seen it too easy to avoid the issue by claiming that it isn't an issue. But if you look at Chitna, Alaska, for example, where we now have to pay for access to fish and game that is supposed to belong to all of the people in a navigatable waterway.

Another example is the support that this administration, coupled with the coercion by federal government, gave this state for subsistence law. A more fitting term would be: Natives only, no closed season.

It had to be called subsistence because the Natives of this state lost their aboriginal hunting and fishing rights as far as ANCSA was concerned. It put them pretty much, as I read the law, upon the same footing with everyone else.

The Native villages and corporations are going to have a hard time in a dog-eat-dog world. And they are going to lose a few just like the rest of us. But this is the real world, and the Federal Government is going to have to wean them away—which was the original intent of ANCSA.

I feel that 20 years is sufficient time for any group or corporation to get problems resolved, and then they should have to start paying their portion of the tax burden and have the same worries that other corporations and individuals are faced with.

I am not interested in ripping away anything from the villages, and I don't have a problem with them setting aside land for future generations. But when they decide to become involved in a business sense with any of this land, then they should have it on the line jsut like anyone else.

I have heard that the only reason for these amendments was to protect their culture and heritage, but I feel that if it is worth saving, then it will be saved on its own merits, and we don't have to rewrite laws to accomplish this.

I feel, instead, that Congress and the State of Alaska should be more concerned with our constitutions, about how our constitutions were written for equality, not for Native preference, but equality for all, with equal protection, equal rights, hunting, fishing and economical.

I can't help but wonder why Ted Stevens is so determined to push these amendments through Congress this year, and who does he really listen to, his constituents or his brother-in-law, an AFN lobbyist.

Thank you.

Senator WALLOP. Thank you, Mr. Fox.

Mr. Silas.

STATEMENT OF WILLIAM SILAS

Mr. SILAS. Senate Bill 2065. Since passage of land claims, Alaska Natives have been in a sink-or-swim situation.

The paper society, or corporate model that ANCSA exposed Natives to, was a trial-and-error period. The Native corporations have had their ups and downs. Now that we understand how to play the game, it seems that others want to change the rules.

It seems that sovereignty is an issue here, as pros and cons have different meanings. I feel like the National Riflemen's Association, sports hunters and recreationists are screaming: the redskins are coming, and redskins are coming.

With passage of the land claims there has been some ups and downs with laws that Congress has passed. Over the years in dealing with Indians, we have got laws on one side and the Bible on the other side. The law says if you don't know how to play the game you lose, and the Bible says treat others, but don't covet their land.

There are people here that want to tell us how to live. And I believe that Alaska Natives should have the degree of freedom where they should have control over their own destiny.

Senator WALLOP. Thank you, Mr. Silas.

Frank.

Senator MURKOWSKI. Mr. Fox, in your statement, you made reference to a situation in Tyonek, where it's no secret that that situation did come about, it was a reality, it concerned all Alaskans, Native and non-Native alike. And your generalization of second-class citizenship is certainly one that you're entitled to.

And the ultimate outcome of those situations, I guess, as perhaps indicated by a statement that Mr. Thompson made earlier, unfortunately, are going to probably be resolved through litigation only, the constitutional right of a non-Native.

I simply point this out to commend you for bringing up touchy issues that are of concern to all Alaskans, and that certainly is one that nobody was very happy about, but it was a realtiy.

I'm concerned with your reference to "pay for access to fish and game that are supposed to belong to all of the people". And, of course, the fish and game belongs to all the people, but I'm wondering if you would help us for the record reflect on the reality of what private land means in this sense and the authority under the law of a land-holder to dictate the use of his land.

Mr. Fox. I'd be glad to. I think that the traditional access, as I read the laws and understand what they imply for all of us, at least under R. S. 2477, that there was some access set aside here, which is simply not the case in Chitna any more.

And I think that's just one of the many issues that need to be addressed before we consider any other changes to strengthen one position over the other.

Senator Murkowski. One other question, and this is in regard to the statement that was submitted by Mr. Scarborough. And I'm wondering if Mr. Vogel would care to comment on the contentions of Mr. Scarborough that what we're looking at is really a step backward in time to the reservation concept as opposed to the corporation status where we are now, which is the contention, I gather, of Mr. Scarborough.

This would be the implication, of course, if you gave up the corporation status.

Mr. Vogel. I'm not aware of what the intent, the full intent of Mr. Scarborough. I was also supposed to represent myself and Mr. Randolph, which I wasn't allowed the testimony. I'd like to introduce a statement on that behalf.

Senator Wallop. Well, by all means. All statements will be made a part of the record.

Mr. Vogel. Okay. I just wasn't aware that you knew that I was representing Dick Randolph at this hearing.

Senator Wallop. Well, I didn't, because you told me you were representing Tom Scarborough. Are you representing Mr. Randolph, too?

Mr. Vogel. On the list of witnesses, that's the way it was written.

Senator Wallop. Oh, I see. All right. Go ahead. I'm sorry.

Mr. Vogel. Okay, but before I get into my testimony, I would just like to answer Senator Murkowski's question and reiterate the way I phrased it to you, that questions on this would be answered through written statement to Mr. Scarborough, and he would definitely—if he had the time, he would definitely go into at length on this issue.

Senator Wallop. Do you have Mr. Randolph's statement?

Mr. Vogel. Yes, I have the statement here.

Senator Wallop. Shoot.

STATEMENT OF CHARLES VOGEL

Mr. VOGEL. I want to thank you, Senator Murkowski and Senator Wallop, for allowing the people of Alaska to express their opinion at this hearing.

My name is Charles Vogel, and on behalf of Dick Randolph, who is unable to be present at this hearing, also express his gratification that you have allowed Alaskans this opportunity to submit written testimony at a future date.

On behalf of myself, I will also submit written testimony and go on record today as opposing these 1991 amendments and any other amendments to the ANCSA that may come before you, until at which time the intent of ANCSA, it's agreements with the Federal Government, its agreements with the State of Alaska and its people, and it's agreements with the Native people is clearly spelled out.

We have a major problem with the intent of our laws that were agreed by the Federal Government and the state of Alaska and the Native people.

I reiterate again that my opinions are not those of our next governor candidate, Dick Randolph, these are my own personal views. Thank you.

Senator WALLOP. Thank you, Mr. Vogel.

Senator MURKOWSKI. Mr. Chairman, I wonder, is there a statement for the record from Mr. Randolph.

Mr. VOGEL. It will be presented within the time frame which you have allowed for written testimony to be presented.

[The prepared written statement of Dick Randolph was not submitted to the committee.]

Senator WALLOP. Well, thank you all very much, we appreciate it.

Panel 10: Ernie Holmberg.

STATEMENT OF ERNIE HOLMBERG, PRESIDENT, MTNT, LTD., NIKOLAI, TELIDA, McGRATH, TAKOTNA

Mr. HOLMBERG. I was going to say good morning, but I think it's afternoon now. I'm wondering when do you have lunch. It seems like our taxpayers' money is at work, you're working through your lunch hour, and I appreciate that. It seems like Dick Randolph may be out to lunch.

My name is Ernest Holmberg. I'm speaking as a corporate officer of MTNT. As you can note that my last name is not a Native name. Holmberg is a Swedish name. And I can see, Mr. Chairman and Mr. Murkowski don't have Native names. [Laughter.]

Senator WALLOP. Mine's Wa-ha-lop. [Laughter.]

Mr. HOLMBERG. I would like to emphasize the fact that my father came to this country from the Old Country. He was a Swede. He was an alien. He finally got his citizenship in I think, 1949. He lived in this country with the Native people for many, many years. He lived in many villages. He married into the Native community. And I'm glad he did, or else I wouldn't be around.

But the thing is, when he did live in the Native community, he never did impose his way of thinking. He respected the Native way;

he respected the Native rights in those days. This was many years ago before Statehood.

He respected the values of the Native people. As a white man, he did those things in those days. And today, as a Native and also as a white man, I commend him for his principles. And today, I carry these principles with me as I testify before you.

These principles are there: the respect for the Native rights of Americans, of Alaskans, of the Indians, of the Eskimos.

But I would say this, the issue of sovereignty is not the issue today, as many people spoke before me. Sovereignty is probably a terminology in the English language that we shouldn't be using today. We probably should be using the word "homerule".

If my dad were alive today he would probably say the Canadians should have brought Alaska, the Canadians respect homerule.

Homerule within itself, homerule within the villages is what—homerule within the villages is what's directly today. Homeruled by Natives or non-Natives, respect those municipalities, those rights that those municipalities have. But that's beside the point.

I have heard today many times throughout the testimony on sovereignty, which, you know, is not the issue at hand.

But in my testimony I would like to address one section that I have a problem with. My dad was a miner, and I represent many miners who are Native miners in my village area. MTNT is a consolidation of McGraph, Telida, Nikolai and Takotna. McGraph and Telida are both, those sections of land are very valuable mineral lands. And through the course of this settlement that we have, it has taken so long for land conveyance that we're not able to really develop some of those mineral potentials.

We are for development in order to protect our trapping lands, our forest lands, our hunting grounds. Those areas will need some revenue to protect those lands. But I would like to wonder on the thinking of one section of this proposed bill, Section 9, concerning revenue sharing for subsurface lands being transferred over to the village corporations, and the 7(i) position has been very controversial among the Native peoples.

And today I think it still is there. But I commend you for putting that in the bill, the subsurface transfer of regional subsurface lands to village corporations.

But the problem I have here is that since it has taken so long for this transfer to happen that we're not able to develop those lands. But I would like to see it where the revenue sharing also is part of the village corporation under the 7(i) provisions to develop sub-surface lands. Thank you.

Senator **Wallop**. Thank you, Mr. Holmberg.

Gary Lee.

[No response.]

Senator **Wallop**. Rosemarie Maher.

Ms. **Evans**. Mr. Chairman, I have been given permission to take her place, as she is not able to be here.

STATEMENT OF LINDA EVANS, CHIEF, VILLAGE OF RAMPART

Ms. EVANS. My name is Linda Evans. I am Chief of the Village of Rampart. I am also Manager of the Baan-O-Yeel-Kon General Store in Rampart.

As Chief of the Rampart Village Council, there are several concerns that are immediate to the residents of Rampart.

An immediate concern is the inability to have lands transferred under Section 14(c)(3), due to Federal townsite. What does this mean to our village?

Our young people will have to live with family members, which is not healthy. Our young will have to look elsewhere to build and raise their families—build their homes and raise their families.

At home in Rampart, there is no land for our people to build new homes. We want our village to survive and we want our people to stay in the village.

This may sound strange, because in the passing of ANCSA, we are supposed to be great land-owners. By law on the books, this is true. But with the land not being timely conveyed, it is causing problems.

Another issue is our elders. They are few. They have lived on these lands all their lives. They have preserved and managed these lands. They have passed this knowledge on to us. Our elders were the initiators of the Land Claims Act. They foresaw the need to keep and manage our land so that we can use it and our children can use it, and all future generations after us.

Our concern is what benefits will these most important people get for their hard work, land and resources they have managed taken from them and their descendents?

Another concern is our young Natives; namely, those born after 1971. They are our future. It is up to them to hold onto our lands, our way of life. They need to have a part in this Land Claims, it is their right.

Those born in 1972 are now 14 years old, near adulthood. We have to say to them that they are not Native; they have no rights to what our elders protected for them, for us.

Your people in Congress might be able to say this, I can't. I have two children who were born after 1971. I cannot say to them that they are less Native than I. My grandfathers worked very hard to save this land for me. Can I do less for my children?

Finally, I would like to close by leaving you with a few thoughts. Everyone who is not Native think of Alaska Natives as rich land-owners. But in Rampart, there are no rich Indians. I wish every one of you could come to our village and see how we live.

Just last year we got electricity. There is no indoor bathrooms or running water. We heat our homes with wood. We don't turn up the thermostat when it gets cold. Life is not easy at home, but it is our life and we want to preserve it.

We live partly by subsistence and limited employment, outside the village, when we are fortunate to get a job.

Do you know what it is like to have to leave your home and your family in order to get work so that you can support them?

As Alaska Natives, we are not trying to alienate anyone. We want to preserve our lands and our lifestyle. It is our right as aboriginal people to this land.

I want to go on record as supporting Senate Bill 2065. Thank you.

Senator WALLOP. Thank you, Ms. Evans.

Richard Frank.

STATEMENT OF RICHARD FRANK, PRESIDENT, SETH-DE-YA-AH CORP.

Mr. FRANK. Thank you.

My name is Richard Frank. I'm the President of Seth-De-Ya-Ah Corp., created underneath Alaska Land Claims Act.

I personally support Senate Bill 2065. Yesterday, we just completed our 12th annual corporation meeting, and that bill was thoroughly discussed. And I am pleased to announce to you that the elders spoke their concern and also the mothers spoke their concerns and the families voiced their concern in regard to children born after 1971. And the people that registered there, which was a large majority, wholeheartedly supported Senate Bill 2065.

It gives them an opportunity to be judged by their peers to voice their concerns, such as these hearings. And I'm pretty sure that there will be more in the future.

Also, I am pleased to announce that since our corporation has been functioning on pretty solid ground.

Thank you.

Senator WALLOP. Thank you, Mr. Frank.

Mr. Brean.

[No response.]

Senator WALLOP. Mr. James.

[No response.]

Senator WALLOP. Winnie Atwood.

[No response.]

VOICE. Okay, you said Winston James.

Senator WALLOP. Yes.

VOICE. Okay, I have his testimony.

Senator WALLOP. You have a statement?

VOICE. Yes, but I'm later.

Senator WALLOP. Oh, you're later. Okay. Got it. [Laughter.]

You've surprised this poor, old Wyoming cowboy up here, these are strange customs.

Winnie Atwood.

[No response.]

Senator WALLOP. Julie Roberts.

STATEMENT OF JULIE ROBERTS

Ms. ROBERTS. Hello. My name is Julie Roberts, and I am an Athabascan Indian from Tanana, a village located on the Yukon River.

I am here to testify on behalf of myself and my two sons, who are not ANCSA shareholders. I work for our village corporation as an office manager and as a land specialist, and I have worked for the corporation for approximately four years.

I am exposed to the issues that our corporations are faced with every day. And one of the issues today is the high taxes that we pay in order to be a corporation.

I cannot imagine what would happen if we went bankrupt, what would happen to our land if we had to use our land to pay those taxes.

I know for a fact that our people need the protections of the amendments to 1991. Many of our people in Tanana really do depend upon the natural resources that the land provides for them.

The people who are opposed to subsistence hunting and fishing should come out to the villages to try to live out of the commercial stores. We have to pay $10 for a steak, which is really high.

We do not want our people to live off food stamps. We want our people to be able to go out and to obtain their food off the land.

I would like for you to send Senators to come out to Tanana to see what a village is like and to see how we live.

We are a close group of people, and we protect our own. Sure, we have State governments and Native governments, but we work side by side as neighbors.

We are not a group of racially-defined people, as some people might suggest. We are only a tribe of Indians trying to maintain a culture.

In order for our culture to survive, we need your hand and the hand of Congress to keep us a unique people.

Thank you.

Senator **Wallop**. Thank you, Ms. Roberts, for that eloquent statement.

Mr. Walker, James Walker.

STATEMENT OF JAMES F. WALKER, ON BEHALF OF THE ZHO-TSE CORP.

Mr. **Walker**. I'm James F. Walker. I'm three-quarters Athabascan. My grandfather, he sneaked over here from Edinboro, Scotland, some years ago. [Laughter.]

As an elder, it's an honor for me to be sitting here, discussing an issue that we're facing. And I appreciate it very much.

I come here with no animosities or anything like that. In the past, our Native culture has been, as some have referred to, we accepted anyone, and we trusted them, the few that are up here. But not with this—all this, you know, like almost overnight we are faced with so many problems.

So with that, I will—I made it short, you will notice. I think the rest of the testimony has pretty well covered other issues.

I represent the small corporation of Zho-Tse, at Shageluk.

And for definition, you have been hearing all the time Native names. So that definition for our corporation is Hill Village. So with that, I will go on.

It's short and sweet.

Without amendments to the Native Land Claims, we elders are concerned that the Land Claims will put us Natives in a position of losing our land. We know that there is no way we can pay taxes on the land selected by regional and village corporations.

It is imperative that we Natives maintain a traditional land use for our future generations. Loss of the land would result in our future generations being subject to more poverty, and total destruction of our culture and identity as Alaskan-born Natives.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Mr. Walker.

Julie Roberts, your statement said that your corporation was now paying a heavy load of taxes. Is yours one which is primarily involved in——

Ms. ROBERTS. The business of the corporation, the every-day business of the corporation, we pay a lot of taxes and interest on——

Senator WALLOP. On what?

Ms. ROBERTS. On the money that we had made or had lost in the past.

Senator WALLOP. These are income taxes or——

Ms. ROBERTS. Yes, high taxes.

Senator WALLOP. Property taxes?

Ms. ROBERTS. It's not property taxes, it's income tax on the money we had made or had lost.

Senator WALLOP. Are you making money now—not you, but your corporation?

Ms. ROBERTS. No. Last year we showed a loss.

Senator WALLOP. Your corporation showed a loss.

Ms. ROBERTS. Yes, and has been for the last 3 or 4 years now.

Senator WALLOP. But on that basis you don't——

Ms. ROBERTS. We don't pay taxes on the land right now.

Senator WALLOP. Frank, do you have questions?

Senator MURKOWSKI. Thank you.

Mr. Holmberg, your questions—observations on sovereignty, I think, were certainly within the intent of the legislation as structured. It was not the intention that this legislation address sovereignty, but, theoretically, there is a route to get to sovereignty through the transfer of assets to other entities.

Is it your opinion that there should be some correcting language with regard to sovereignty, since it has come up so many times in discussions today?

Mr. HOLMBERG. I haven't looked in the dictionary to see the exact wording of sovereignty. There is different interpretations of that word, And there is some cases where sovereignty means that you can tax—you know, there's taxation involved.

Senator MURKOWSKI. Do you think it ought to be clarified, or do you think it's all right the way it is?

Mr. HOLMBERG. The word sovereignty and subsistence is—is an area that—I'm not a lawyer, put it that way.

Senator MURKOWSKI. You'd make a good one though.

I have one other question, Mr. Chairman, and I would ask it to Linda Evans, who is speaking on behalf of Rosemarie Maher—that is correct, it is Linda Evans?

Ms. EVANS. Yes. I'm not speaking on behalf of Rosemarie, though, I'm speaking as Chief of the village of Rampart. I'm just taking her place because she's not able to be here.

Senator MURKOWSKI. All right. Excuse me. You're speaking as Chief of the village of Rampart.

I totally agree with your concern over the fact that the children born after 1971 have no provision under the Settlement for stock of their own.

The manner in which the stock is provided is through inheritance, which is under conventional inheritance statutes.

I think, from the information I have had in conducting the hearings in the other part of the State, that there is no opposition—I have yet to hear a witness opposed to some consideration for these children born after 1971.

It's strictly the matter of the Native community coming up with some kind of a workable formula where they give up a portion of the shares outstanding so they can be divided into the interest of the children coming along. But it is a complicated process to evolve some kind of an equation, because you would be continually issuing and reissuing shares, diluting.

Your own individual holdings would be, theoretically, diluted by your grandchildren coming into effect. Now, there's other classes of stock and so forth. But I think the general concensus of witnesses that I have heard from Kotzebue, from Hoonah and Barrow, that they want this to happen, there's virtually no opposition to it. But nobody has come up with a suggested formula of how you do it. Because it's up to the Native people to make a determination that they want to give up their stock for the benefit of their children.

But then as new children come along, you have to have new stock to take care of them. They have to divest even more so. I would just share that observation with you to give you an idea of the input that we have had previously

There's no opposition. It's a question of how you want to do it.

Ms. ROBERTS. I understand that there's no opposition. It's just that it's included in one of the amendments to give us that option.

Senator MURKOWSKI. Surely.

Ms. ROBERTS. So that we can——

Senator MURKOWSKI. Try and figure out a formula.

Ms. ROBERTS. And we're in support of that.

Senator WALLOP. Thank you all very much, we appreciate it.

The next panel: Lucy Carlo, Fairbanks: Gilbert Ketzler, Nenana; Lee Titus, Minto; Dorothy Shockley, Manley; Vernon Miller, Wiseman; Jane Thompson, Lake Minchumina.

The coming panel will be: Bergman Moses, Allakaket, Harding Sam, Donna Lewis, Connie Sommer, Melvin Ben, and Henry Weihl. That will be the one that follows.

Lucy Carlo.

Ms. KEATING. My name is Elizabeth Keating. I'm reading for Lucy Carlo.

Senator WALLOP. Please proceed.

STATEMENT OF ELIZABETH KEATING, ON BEHALF OF THE FAIRBANKS NATIVE ASSOCIATION, INC.

Ms. KEATING. Chairman Wallop, members of the committee. I thank you for the opportunity to speak with you about Senate Bill 2065.

My name is Elizabeth Keating. I am a member of the Doyon Regional Corp. and also a member of the village corporation of Grayling.

My concerns about the proposed amendments to the Alaska Native Land Claims Settlemant Act are many, not the least of which is being able to understand thoroughly the legal language unless an attorney interprets for you. Please keep this in mind as you seek comments around the state, that Senate Bill 2065 is extremely difficult to read, to interpret and to understand.

Therefore, I am going to speak in general terms about the most important goal of these changes, the protection of our lands that we settled for back in 1971.

This 40 million acres that we want to keep in perpetuity for the original inhabitants of this state.

I see my role as a caretaker or trustee of these lands. As a caretaker, it is my responsibilty to ensure that these 40 million acres are passed on to future generations, as it has for 10 to 20,000 years.

It is not our right to vote whether we can sell our shares. A caretaker does not have the right to sell land that belongs to the generations of the future.

The land has been good to us economically and spiritually. We have strong ties to the land. It has provided us with the very basic physical elements of life, food, clothing, water.

It has provided us with a subsistence economy that is still very much in existence today, as it was for my grandfather and his grandfather before him.

Spiritually, it has provided us the very roots of our culture and language. Our language, our stories, our beliefs revolve around what the earth has provided for us. You take away our land, you take away our lives, our spirit, our very nature.

Restrictions about selling our land should be extended into perpetuity forever. These restrictions should also include non-taxation of our lands.

You know as well as we do, if our lands were open to taxation, whether developed or not, we would eventually lose these lands to whatever government entity that has power to tax or to anyone or any business that can afford to purchase these lands at little or no cost.

Natives have suffered at the whim of whatever new government gets elected. You admitted in passing the Claims Act of 1971 that you had a legal obligation to settle with the original owners of the land. In good faith and in keeping with the spirit of the Claims Act, please do not take away what we settled for in 1971.

The common law of the United States acknowledges that the original inhabitants have a legal claim over their aboriginal lands. What right have you to take away this land again by forcing us to be taxed?

We have truly compromised in order to settle with the United States our claims to the land. We have reduced our land holdings from 365 million acres to 40 million acres.

In that settlement, the state has benefitted by receiving over 115 million acres, and the Federal Government the remainder.

We have made you legal landowners. We have justified your adverse possessions. Taxation on lands whether they be developed or not is not morally or legally fair to us. Taxation is a perfect tool for outside forces to take away the land that we settled for.

We are Native people. We have a long history of unfortunate dealings with the United States. These amendments would serve to correct a bad deal forced upon us.

Please, for the sake of decency to a disadvantaged people, pass these amendments.

The U.S. Government likes to be seen as the big protector to smaller nations around the world in generous foreign aid, etc. Should it do less for the aboriginal people within its own boundaries?

Thank you.

Senator WALLOP. Thank you, Ms. Keating.

Mr. Ketzler.

STATEMENT OF GILBERT KETZLER, ON BEHALF OF THE TAHELLE CORP.

Mr. KETZLER. I am Gilbert Ketzler from the Tahelle Corp., Nenana. I'm fully in favor, as the Tanana Chiefs were, of S. 2065.

I was sorry, I mean, to see here, you know, the same crowd that's fighting subsistence.

Nenana is on a railroad and the highway and the river and has an airport. Still, over half the residents are on, to a certain degree, subsistence. They have to depend on it, there's no industry.

And we have more problems, I think, than any corporation in Alaska. Right now, we're dominated by the white city government. And even right now, they're at this date, they have thrown in an appeal on 122 to exclude the Native corporations from the city altogether. And the railroad is fighting us.

And on that sovereignty, what—earlier this winter I heard there was a bill going through legislation in Juneau to exclude any community less than 3,500, 3,600 people from being organized in city government.

It's just that, you know, Indians have a—you know, I'd like to see one treaty, or whatever it is, that will go without being broken, a broken promise.

I mean, it says that the Land Claims is an agreement. And I would sure hope that they would live up to their agreement, because I can see that we're—we might not have all our land entitlement before 1991. Because right now, all of our funds are being expended fighting for the land at Tanana. I mean it costs anywhere from $1,100 to $200,000 a year for attorneys' fees.

We have got people from city government going to try to circumvent the Land Claims Act, And I'd like to see the restrictions for another 20 years on that, on the stock, because really, a corporation is formed, formed for the Indians, that we were handed—they say you are a corporation, when a regular business or a corporation for profit is formed for need. And when you're handed it, and they look around and pass around and see if they can find a business for profit, our corporation never, ever has made a dime. And they have gone into businesses and lost a tremendous amount of money by not—I mean, you know, it's foreign to the Indians.

I just would like to see these amendments passed, and the restrictions extended. I'd like to see the children born afterwards have, you know, have shares whether it dilutes my shares or not. Because there is not one Indian in my corporation that really has benefitted from it. All they have got is a whole lot of animosities heaped upon them since the passage of the Act.

Senator WALLOP. Thank you, Mr. Ketzler.

Mr. Titus.

STATEMENT OF LEE TITUS, CHIEF, VILLAGE OF MINTO

Mr. TITUS. I'm Lee Titus, Chief of the Village of Minto.

We are in favor of the 1991 amendments. We would like to see the children born after 1971 be able to receive stocks, as everybody else.

And there's a lot of things in there that's set up in the 1971 provisions that have not been thoroughly looked into that has really been opposed to the traditional values of the Native people.

The values of our land have been imposed upon by the state. And we have not been really given what is really due us.

If my great-great-grandfathers were able to sit in or to read the ANCSA Land Claims, I think they would throw it out, because there's a lot of things in there that they know that the state would not recognize them in.

And the provisions that set up ANCSA amendments is really contradicted to the values of the traditional way of life.

Under the present amendments, we now have Indians selling booze to Indians, where we lose our tradition, where we lose our values.

We want Native control of Native lands. And we just hope that all these things could work out. And it's always been our practice in our Native tradition that if we get something good we share it with our neighbors. And that's just the way we feel towards the children born after 1971.

We always wanted to share what we had. And I understand that all those that oppose the amendments were opposed under ignorant idiologies, who do not understand the values that we hold.

Thank you.

Senator WALLOP. Thank you, Mr. Titus.

Dorothy Shockley.

[No response.]

Senator WALLOP. Vernon Milier.

STATEMENT OF VERNON MILLER, CHIEF, WISEMAN VILLAGE COUNCIL

Mr. MILLER. Senator Wallop and your staff, Senator Murkowski and your staff, and the staff of the committee.

It was a few minutes before six this morning and I was still working on these few words that the sun shined in on me and I felt warm, and I thought today might be my day.

I wish to convey the following information at this hearing to facilitate an amendment to Section 2 of the 1971 ANCSA bill.

Wiseman was not listed in the Claims Act. Subsequent enrollment tallyed a total of 45 Natives enrolled back to the Village of Wiseman.

Imnak was incorporated, and a request was made to certify Wiseman as a village, the same as those under Section 7 of the Act.

Subsequent action by the Bureau of Indian Affairs prevented Wiseman from obtaining the benefits of the Act. Our village enrollment to this day has not been overturned.

Upon denial of village status, Wiseman was incorporated, and the land selection was made pursuant to the 1971 Act, as a group filing.

Wiseman was again denied any rights under the 1971 Act, and the case was pursued in court until the attorney foresaw any future in our case.

Enrollment to the history of Wiseman is: My brother, born in Wiseman, is enrolled to the North Slop Village; Bill English, born in Wiseman, is enrolled in Cook Inlet; Bill English's children are enrolled to Wiseman; Bill English's aunt is enrolled at large here in Doyon.

After 15 years of being the sole supporter of the two corporations, and with this amendment to ANCSA 1971 under consideration, I hereby request that the case of the Village of Wiseman be expeditiously resolved.

Based upon the unique circumstances that no BIA school was ever in Wiseman—and I will reiterate that we were considered 51 percent white and had a territorial school teacher—and that the federal banning of mining—who, my father, being white, had mining claims—Natives at the time could not have mining claims—and controversial, irrelevant testimony admitted to the BAI findings to this date, I respectfully request that my request to amend Section 2 of the 1971 ANCSA to include Wiseman as a village with full participation in the benefits of this Act.

I further wish to convey the following information at this hearing to facilitate an amendment to Senate Bill 2065: It is my opinion that the 1971 Alaska Native Claims Settlement Act, together with subsequent amendments, are enacted by Congress, pursuant to its plenary authority under the commerce clause to regulate Indian Affairs. As such, they constitute Indian legislation.

I, therefore, support the inclusion in Senate Bill 2065, of amending language that will absolutely remove any doubts that Congress intended ANCSA and amendments to be Indian legislation.

Senator WALLOP. Thank you, Mr. Miller.

Jane Thompson.

STATEMENT OF JANE THOMPSON, ON BEHALF OF MINCHUMINA, INC.

Ms. THOMPSON. Thank you, Mr. Chairman.

My name is Jane Thompson, on behalf of Minchumina, Inc., in Lake Minchumina, Alaska, to testify Senate Bill 2065.

We support the amendment for ANCSA as stated in Senate Bill 2065. We believe that the stock that we now have should be passed on to descendants in order that they might continue our customs and the way of life.

If our stock were to become controlled by non-Native interests, it is certain that these interests will not have the same values in regards to the land that we do.

It is our main concern that all future generations of Native people have land to live on and use as our people have for countless generations.

The concept of land having value in terms of dollars and cents is not a Native concept. While we do support Senate Bill 2065, and view it as our attempt to make ANCSA into a fair and just settlement, we would like to point out that parts of ANCSA have not been implemented.

There is a segment of Native population for which a final determination of eligibility have not been made. The decision of eligibility of Native groups to receive a settlement has not taken place, and it has been 15 years since ANCSA has passed.

We respectfully request that this matter be addressed in a timely manner. Fifteen years have been an adequate amount of time for the United States Government to determine who will be eligible to receive benefits of the Alaska Native Claims Settlement Act.

Thank you.

Senator **Wallop**. Thank you, Ms. Thompson.

Frank?

Senator **Murkowski**. Thanks, Mr. Chairman.

I'm wondering, Mr. Miller, if you could indicate for the record in 1970–71 what the population of Wiseman was, Native vis-a-vis non-Native.

Mr. **Miller**. To the best of my knowledge, I and my son maintain our mining camps, and there was Mrs. Jonas, who has since deceased living there. Of the 45 shareholders enrolled, and because it was December 29, 1942, at 12 minutes after 5 that I came to Fairbanks to attend the second half of the school year in the fourth grade, I think those are extenuating circumstances that precluded us from a lot of us making our way back.

We, nonetheless, though, maintained our original homes; and, nonetheless, enrolled—and I make mention of the enrollment here to show that in the case of Wiseman, where we have groups of families that are scattered within many villages and three regional corporations, and also the fact that there were amendments, I believe, passed—and like the young lady requested here, an expeditious answer to the question of groups.

Legislation was passed, I believe, in 1980—I'm not positive of the date, but legislation was passed to expedite the groups being given their land and their status.

In the case, as I have said, of Wiseman, those rules were not followed, and we were turned down. I can't speak for the group that she represents, but it is my firm belief that after waiting all these years, I sit here and have people say that those that have their land, they have outside interests that want to tell them what to do, they have people that own the land have interests that they want, and that there's those of us that have a cloud on the title that we're entitled to.

I don't think anyone here disagree that 1971 was a settlement act.

Senator **Murkowski**. I was just interested in knowing what the qualifications were at that time, because it was my understanding that it needed some 25 as a minium or a majority of the village at that time to be Native to qualify. So I was just asking for the record.

I have one other question, Mr. Chairman, and it's in reference to the testimony of Lucy Carol, as given by Elizabeth Keating.

That is the consideration for the extension of time on the land, I believe in perpetuity was the statement given. And it would be helpful for the record as we review, what the attitude was of those that were active in the 1971 legislation with regard to the 20-year period. Because, obviously, that was put in there as a result of a compromise. Now, whether that was one point that was the compromise in order to proceed with the legislation as opposed to an agreed compromise vis-a-vis a disagreed compromise, it was clearly spelled out that land would be taxable within 20 years. And I can only assume that there was enough support of that and other provisions to get a compromised bill through.

Now, of course, we face the reality that it's the concensus of the Native community that that isn't enough time, even though we recognize that the 20 years doesn't start until receipt of an individual parcel of land.

So I would just suggest that, if you are so inclined, Elizabeth Keating, that we would appreciate Ms. Carlo providing for the record any reference to what was the concept of the 20 years in 1971.

Ms. **Keating**. I don't know. Most Natives didn't approve of that. It might have been the compromise. I haven't talked with the individuals that did the final negotiations. But I know that a lot of them went on record in the last couple of years saying that they made a mistake, that they never would have negotiated and allowed some of the things to pass that did.

Senator **Murkowski**. Thank you, Mr. Chairman.

Senator **Wallop**. Thank you, Frank.

Let me just make an observation, Ms. Keating. We were just discussing how Alaska came to be a part of the United States. And my knowledge of the history is sketchy, to be sure, but I do not recall that Russia, when selling this territory, made any arrangements at all for Native peoples.

Ms. **Keating**. I believe they included some language in the sale, and I can't quote it to you verbatim, but that the purchaser would negotiate with the aboriginals.

Senator **Wallop**. I guess my point is that, while I don't quarrel with the statement that you had: Native people have a long history of unfortunate dealings with the United States. My imagination is that you have had many more fortunate dealings than you might have had had it stayed in the possession of what is now the Soviet Union.

And so as we gather here in a struggle to try to accomplish something, at least we can say that there is a good-faith effort to try to accomplish a variety of things and the process is at least free and open.

Ms. **Keating**. I was referring to, I guess, American Indian and Native history all together, U.S. history with the aboriginal people of the United States.

Senator **Wallop**. Well, thank you all very much, we appreciate it.

Mr. **Miller**. Senator Wallop.

Senator **Wallop**. Yes.

Mr. **Miller**. Can I comment on—I didn't get a chance to respond to the statement that Senator Murkowski made.

For a village, it is an enrollment of 25, and for a group it's less thant 25, up to 24 and a minimum 3.

So we had an enrollment of 45. And like I answered in your question, there was never any question of our enrollment. So it still stands at 45, and that's the basis of maintaining that we should be allowed village status.

Senator **Murkowski**. And the BIA didn't challenge that?

Mr. **Miller**. No, sir.

Senator **Murkowski**. But they didn't give it to you either.

Mr. **Miller**. They denied us village status.

Senator **Murkowski**. Did they tell you why?

Mr. **Miller**. Beg your pardon?

Senator **Murkowski**. Did they tell you why?

Mr. **Miller**. I believe they used the preface that there was not 14 living in the area in the 1970 Census.

Senator **Wallop**. Thank you.

Well, we're halfway through, folks.

The next panel is Bergman Moses, Harding Sam, Donna Lewis, for whom I already have the statement up here, Connie Sommer, Melvin Ben, and Henry Wiehl.

And the panel to follow them will be Maureen Walsh, of Tok; Linda Erickson, Heally Lake; Matthew Malcolm, Eagle; Ted Charles, Dot Lake; Ken Thomas, Tanacross; Lee Joe, Tetlin; Robert Silas, Northway.

If Panel 13 would come up while we start on Panel 12.

Bergman Moses.

STATEMENT OF BERGMAN MOSES, VILLAGE OF ALLAKAKET

Mr. **Moses**. My name is Bergman Moses. I will be giving testimony on behalf of the Village of Allakaket, which has a population of 180 Athabascans.

The tribal members of the Village of Allakaket supports the proposed 1991 amendments to ANCSA. We are very concerned about the land. Today and in 1991, there is a very real threat of Alaskan Natives losing all of their land.

The corporate structure has been a very foreign one to all of our people. The Alaskan Native lifestyle and cultural beliefs do not coincide with the business aspect of corporations.

We are a very spiritual and cultural people, with ties to the land that is sometimes hard to explain. To lose with little land we now legally own would be disastrous to our way of life. For this reason, we support the concept of land being transferred to another qualified tribal entity.

As for children born after 1971, this issue has to be resolved in favor of letting all children born after 1971 into the corporations as equal shareholders.

Traditionally, all land around Allakaket was considered to be tribally-owned. There were no individuals owning any one of the land. This how it should remain.

The inheritence clause that says stock can go to non-Natives is wrong. This would take traditional property and place it in outside hands.

In conclusion, we support the other amendments because it gives us options that we can exercise at a time when we are better prepared.

Thank you.

[The prepared statement of Mr. Moses follows:]

Bergman Moses-Village of Allakaket

My name is Bergman Moses. I will be giving testimony on behalf of the Village of Allakaket which has a population of 180 Athabascans.

The tribal members of the village of Allakaket supports the proposed amendments to ANSCA. We are very concerned about the land. Today and in 1991 there is a very real threat of Alaskan Natives losing all of our lands. Today we can lose our land by making bad investments, by adverse possession, by court settlements, and by stock going into non-native hands through inheritance. The corporate structure has been a very foreign one to all our people. The Alaskan Native lifestyle and cultural beliefs do not coincide with the business aspects of corporations. We are a very spiritual and cultural people with ties to the land that is sometimes hard to explain. We know the land, we respect the land and it is a source of tremendous pride to us. Too lose what little land we now legally own would be disastrous to our way of life. For this reason we support the concept of land being transfered to another qualified tribal entity.

As for children born after 1971, this issue has to be resolved in favor of letting all children born after 1971 into the corporations as equal shareholders. Our future is in our children and not letting them get a part of the land settlement is robbing them of their rightful heritage.

Traditionally, all land around Allakaket was considered to be tribally owned. There were no individuals owning any one part of the land. This is how it should remain. The inheritance clause that says stock can go to non-natives is wrong. This would take traditional property and place it in outside hands.

We support the other amendments because it gives us options that we can exercise at a time when we are better prepared.

Senator WALLOP. Thank you, Mr. Moses.

Harding Sam.

[No response.]

Senator WALLOP. Donna Lewis.

STATEMENT OF DONNA LEWIS, EVANSVILLE VILLAGE COUNCIL

Ms. LEWIS. Thank you, Mr. Chairman. My name is Donna Lewis. I'm testifying on behalf of the Evansville Village Council. I'm here today to support Senate Bill 2065 with the changes recommended by the TCC 1991 Conference.

Our land is of utmost importance. A lot of people seem to be forgetting that our land is not private property.

With your help we hope to keep that way so we can make our own decisions about our future. Getting a firm grasp and western concepts and corporate structure has not been an easy task.

I keep remembering an old saying: "Take our land, take our life." It still applies. Without our land, we will not be able to continue to practice traditions set in motion even before the Russians came to Alaska.

I know ANCSA was a whole new concept in Native law, and experimental animals in a lab, we are human beings with an ancient culture we would like to continue to maintain in modern-day America. And to do that, we must keep our lands protected.

ANCSA was a piece of legislation in support of Native rights. I would appreciate your help in continuing that precedence.

Thank you.

Senator WALLOP. Thank you, Ms. Lewis.

Connie Sommer.

[No response.]

Senator WALLOP. Melvin Ben.

STATEMENT OF MELVIN BEN, STEVENS VILLAGE, IRA COUNCIL

Mr BEN. My name is Melvin Ben. I am representing Stevens Village, IRA Council.

Our primarily concern is with the preservation of Native ownership of lands received under the 1971 ANCSA. These lands were always ours. We had a strong legal claim to them, and in order to extinguish our aboriginal claims to the entire State of Alaska, these lands were set aside for us.

We have lived on these lands. Our ancestors lived on these lands from the time immemorial, and we insist that our children have opportunity to continue to live on our tribal lands.

The subsistence that our tribal lands provide is essential for the preservation of our way of life. We would like to propose that the final bill's language be reviewed and approved by the villages so that they could determine that the legislation would hurt our tribal government.

Thank you.

Senator WALLOP. Thank you, Mr. Ben.

STATEMENT OF HENRY WIEHL, SR.

Mr. WIEHL. My name is Henry Wiehl, Sr., I live in Rampart, Alaska. I have lived there all my life, except for the years I served in the Army in World War II. I have six children. Rampart is on the Yukon River. It is a very small village. There are only a few jobs.

I am a shareholder of the village council, Baan O Yeel Kon, and a member of Doyon. I have served on the Board of my village corporation and the village council. I am a president of an interior elders conference. I am speaking for the Senate bill.

Our corporation had done a very good job. I have worked together with our village council for our village people. Now it is time that we take steps in receiving what is ours.

We must also keep our stock and hold onto our lands. The land is important in our everyday living. I don't know what I would do without being able to use our land.

The land brings us food for hunting, trapping and fishing. The land brings us fuel for getting our wood from it. We use the land for dog mushing, for roads, and for mining.

Please do what you can in Washington to get Senate bill 2065 passed. Thank you for letting me tell you how important it is that these amendments pass.

Thank you.

Senator WALLOP. Thank you, Mr. Wiehl.

Frank.

Senator MURKOWSKI. I have no questions.

Senator WALLOP. I have no questions. I appreciate your taking time to come and testify here today and for your patience.

Panel 13: Maureen Walsh, from Tok; Linda Erickson, Matthew Malcolm, Ted Charles, Ken Thomas, Lee Joe, Robert Silas.

Senator MURKOWSKI. We didn't do very well. Nobody wanted to be on 13.

Senator WALLOP. Everybody thought 13 would be the unlucky panel.

Mr. SILAS. My uncle's not here, he can't see, but he wanted to submit this testimony as the Chief of Eagle Village.

Senator WALLOP. All right. Mr. Silas, do you want to read your uncle's testimony?

Mr. SILAS. Yes, I suppose.

STATEMENT OF MATTHEW MALCOLM, CHIEF, EAGLE VILLAGE, AS PRESENTED BY ROBERT SILAS

Mr. SILAS. Mr. Chairman. Hello, My name is Matthew Malcolm. I am the Chief of Eagle Village. I would like to see continuation of the stock restrictions and they should be authorized.

I also feel very strongly about land transfers from the corporation to the village council or Native governments. This should also be authorized under the legislation.

Children should not be left out either. They should be stockholders like we are, if they were born after 1971.

Natives should retain control and ownership of all their assets, including the land.

Also, whenever Natives receive financial assistance from Government programs, that eligibility for that assistance should not be affected by the stock ownership or dividend from Native stock.

Thank you, Mr. Chairman, for the opportunity to testify.

Senator WALLOP. Thank you, Mr. Silas. We appreciate your giving Mr. Malcolm's testimony.

Panel 14 is Ronald Solomon, Fort Yukon; Stanley Jonas, Canyon Village; Patty Salmon, Chalkyitsik; Paul Williams of Beaver; Susan James, Birch Creek; Ruth Crow, Circle; Brenda Gilbert, Arctic Village; Ernest Erick, Venetie.

Mr. Solomon.

STATEMENT OF RONALD SOLOMON

Mr. SOLOMON. Mr. Chairman, thank you very much.

My name is Ronald Solomon. I am testifying on behalf of myself.

My testimony is only verbal and not submitted in written form.

I support Senate Bill 2065, as I would any bill which deals with land protection and Native children born after 1971.

Section 7(a)(1) in Senate Bill 2065 would allow land to be transferred village tribal councils. Under the village council constitutions and bylaws, all descendants of members of our tribes are automatic members of our tribe.

Senate Bill 2065 would protect our land so that all future Native people could continue to live a village lifestyle.

Thank you very much.

Senator WALLOP. Thank you, Mr. Solomon.

Mr. Jonas.

STATEMENT OF STANLEY JONAS, VILLAGE COUNCIL OF CANYON VILLAGE

Mr. JONAS. Mr. Chairman.

My name is Stanley Jonas, representing the Canyon Village Council of Canyon Village.

And I want you to know that I'm in favor of Senate Bill 2065. We want to protect our stock, our land, and include our children born after December, 1971, into the corporation.

It is important to me that the corporations remain in Natives' hands, and I hope that Senate Bill 2065 will help that happen.

Land is everything to us. We live off it, we want to keep it.

As a group, we have a special problem. We don't even own the village site. We want the land in the villages for our children. They want to give us land way up in the hills. We don't even know what's there.

We can't get into that land. We don't even have any ties to that land. As I understand it, we can't get our village land because of special rules for groups like ours.

The same rules used by villages applied to us, we couldn't get the land around our village. I have 12 kids and 24 grandchildren. Where are we going to go?

All we want is our village back, and we would like to change the bill to do this.

We also have a town site in our village, but we can't get those lands. So our sole—this is our land, where we want to live. We would like to get our town site and we would like your help.

This concludes my testimony.

Senator WALLOP. Thank you, Mr. Jonas.

Patty Salmon.

[No response.]

Senator **Wallop**. Paul Williams.

[No response.]

Senator **Wallop**. Susan James.

STATEMENT OF SUSAN JAMES, CHIEF, BIRCH VILLAGE

Ms. **James**. My name is Susan James. I am Chief of Birch Creek, and I also represent the Village Corporation.

My generation did not participate in the ANCSA development process. Many confusing years later, with 1991 quickly approaching, we realized that critical issues were not addressed or incorporated into the Act.

Lands being held as assets by corporations were originally traditional lands. Tribal members do not consider land as an asset, but rather as a base for their very survival and existence.

We as a people traditionally and culturally identify with the land. The fact that corporations claimed traditional lands as assets, to comply with ANCSA requirements, and therefore, implementing Western cultures, profit-motive, corporate structure, is totally against the traditional/cultural ways of Native people.

We use the land as a whole. Communal tribes use land collectively as a survival source. We support the passage of Senate Bill 2065 to clarify the Act and provide an opportunity to include issues that were absent from the original Act.

Should Senate Bill 2065 fail, the Native people would suffer grave consequences. The very Act which was supposed to have guaranteed Native ownership to their land, now is the Act that threatens to take it back.

It makes one wonder how such an Act was allowed to have passed in the first place. Who was responsible for jeopardizing Native land ownership?

It was terribly unfair that children born on December 17, 1971, and prior to that, who weren't given an opportunity to speak their voice, which obviously could not become reality for 18 years, which would make the year 1989.

The entire decision-making process was made by the adults at the time the Act was passed; decisions that would not necessarily satisfy this generation.

An extension would allow those children to participate.

Thank you.

Senator **Wallop**. Thank you, Ms. James.

Ruth Crow.

[No response.]

Senator **Wallop**. Brenda Gilbert.

[No response.]

Senator **Wallop**. Ernest Erick.

[No response.]

Senator **Wallop**. Ms. James, I have a question. I understand what you say when you say your generation was not involved in the decisions that were made in 1971, but if we extend it another 20 years, the next generation will make the same claim, that they were not involved in the amendments of 1991.

Ms. **James**. I feel the whole process was just done too quickly.

Senator **Wallop**. But we still have a process now, and I'm trying to figure out what will be an appropriate time frame. Some are saying this is going too fast, others are saying it's not. And I understand your desire to be a part of it, but I'm just trying to figure our what will end it.

Ms. **James**. Well, that Act has passed, and if these amendments were also passed, then I feel that a lot of the problems that were created by the original Act would soon be clarified, and at least give us a break.

Senator **Wallop**. Yes, I understand that. And I'm even having an interesting time coming to grips with expressions of Native culture here which is even at odds with the accepted legal terms of English.

I'm trying to come to grips with the idea that, as you say, to call land an asset is identifying Western culture's profit motive, and use of the land as a whole, but then Act was supposed to guarantee Native ownership.

Ms. **James**. Well, isn't that what the Act was supposed to have done?

Senator **Wallop**. I mean what I'm trying to come to grips with is that there's a cross-current of words in here. If it's private property, the ownership of the land implies the ability to control it. I have no problem with that. You know, I'm a hundred precent behind that as a concept. But somehow or another, we have to find a means to provide for that ownership within a cultural concept that virtually doesn't have words that fit where we're trying to go. That's a struggle that a flatlander has with trying to be helpful with an understanding of the problems that exist here.

I appreciate very much all three of you coming to make those expressions. And I will struggle with it. Somewhere along the line I will try and be helpful in this process. But I'm glad you have two Senators who come from here and have at least some understanding of those issues. It is an interesting thing to try to draw the distinction between ownership and not asset, between stock and something that belongs to the children. The children should share in it and yet it doesn't constitute property.

You see the kind of struggle that's taking place in my mind. I don't know where we ultimately go, because stock does imply some sort of share as an asset. If children should be permitted to have stock, and I think that makes sense, we have to get it inside or outside or surround it with a new word.

I sense what you're saying. I think I know what all of you have said. I'm just not certain that the words of this bill or any others have yet created a circumstance which embraces what you're trying to achieve. Perhaps we will find that before this is done.

Senator **Murkowski**. If I just may make an observation in conjunction with Susan James' statement.

I was not in the delegation during the time of the Land Claims Legislation, so I did not participate in the formulation, but I have talked to those who were.

And it's interesting to reflect on what then was the priority of achieving a land settlement and the individual interests of the Natives of Alaska and what has evolved nearly 20 years later—well, not quite 20 years, but 15 years or thereabouts.

And it is I think reflected in the testimony we have seen today for a concern over the continuity of the land, and alarms over the potential risk associated with losing the land. But there is a very fundamental reference that I think has to be kept in mind, and that is, Mr. Chairman, that the conscious Native majority opinion at that time of the reservation status wasn't for the Alaskan Native people. That was almost universal in the sense of the popular attitude of Alaska's Native community. They didn't want a reservation. They wanted to be a part of the mainstream of activity. And the only other vehicle was the corporation status, which is what came about.

And I think it's imporatnt to reflect as we get testimony here the drift of security which the reservation implies, because you all belong to an association, there's no risk; you're taken care of from the standpoint of passing on to future generations, but you don't have the opportunity for the rewards associated with a corporation. And I just simply point that out as a contrast.

Before, Alaska's Native people pretty generally said we don't want a reservation in our claims settlement, we want something different. So that's how the evolution of the corporations came into being, except for the Metlakapla Natives, which was a separate situation.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you all. I appreciate it very much. Thank you for coming today.

The 15th panel is: Joyce Huntington, from Galena; Norman Beatus, from Hughes; Kenny Sam, from Huslia; Josie Dayton, Koyukuk; Bernon Madros, Nulato; Franklin Madros, Kaltag; Elaine Pitka, Ruby.

Senator MURKOWSKI. You will have a pretty good knowledge of the geography of Alaska's village communities when you're through with this hearing, Senator.

Senator WALLOP. Is it Joyce Huntington?

[No response.]

Senator WALLOP. Norman Beatus. Is that close?

Mr. BEATUS. Yes.

STATEMENT OF NORMAN BEATUS, VILLAGE OF HUGHES

Mr. BEATUS. Thank you, Mr. Chairman.

My name is Norman Beatus, and I'm representing the Village of Hughes. I speak in favor of all these amendments, especially the section that has to do with the transfer of land to another entity.

So at this time, they way it's set up, the land very possibly could be taken away from the corporation in the near future. And I don't feel that's right.

That's all I have.

Senator WALLOP. That you, Mr. Beatus.

Mr. Sam.

STATEMENT OF KENNY SAM, VILLAGE OF HUSLIA

Mr. SAM. My name is Kenny Sam. I'm from Huslia. We're living on the refuge of the Kyke River. I'm in favor of Senate Bill 2065 on stock restrictions for our children—I mean for the future, and the land restrictions.

And I feel like I left my children out somewhere along the line. So I'm in favor of giving them shares no matter what the shares cost. To me the money doesn't matter. I just want to make sure that they got a good portion later on. Because the land, to us, you know, in a subsistence way, is really important.

So I'm in favor of all this. Thank you.

Senator **Wallop**. Thank you, Mr. Sam.

Josie Dayton.

STATEMENT OF JOSIE R. DAYTON, KOYUKUK VILLAGE COUNCIL

Ms. **Dayton**. My name is Josie Dayton. I'm from Koyukuk. I'm testifying on behalf of the Koyukuk Village Council.

The issues I want to testify on are: our children, the land, and stock restrictions.

My first concern is our Native children. I want our children to have what we have, the land and share in a corporation. I don't think that we should have the right to sell them out.

I support stock restrictions because I want our children to be able to have stock in our corporation. I'm not concerned about how much the stock is worth, because I don't think the stock should be—because I think the stock should be restricted and we shouldn't be able to sell our stock. And I don't want our land taxed or sold because that land is our life.

Again, my concerns are for our children, the land, and stock restrictions.

Thank you.

Senator **Wallop**. Thank you, Ms. Dayton. Has either Mr. Madros come in, Bernon of Franklin?

[No response.]

Senator **Wallop**. Elaine Pitka.

STATEMENT OF ELAINE PITKA, RUBY NATIVE COUNCIL

Ms. **Pitka**. My name is Elaine Pitka from Ruby, Alaska, a village of 250. I'm testifying on behalf of the Ruby Native Council.

We are in support of most of the contents of Senate Bill 2065. The three items I want to bring out of support would be: options, new Natives and elders.

Options are a necessary means of ensuring that each entity, regional and village, have a chance to make a choice that is best for their location and circumstances.

All 12 regional corporations are distinctly different, as are all 200 village corporations. These distinctions occur because of geographic, cultural, tribal and economic differences. To lump all into one pot would be a gross error.

We believe in respect of others' rights to decide for themselves what is best.

New Natives, which means those born after the original Act passed in 1971, need to be included in the Settlement Act.

We are a people who cannot leave our children out of our life. And ANCSA is a fact of our life. If this opportunity of addition to the Claims Act is not implemented, they may some day ask us why were we left out. We cannot forget them. They will carry on once we are gone.

And also those who missed the original enrollment, we feel that they should be given an opportunity to be included.

And also, our elders should be allowed an added benefit, since their years of participation in the Claims Act may be shorter than ours. They are the ones who have given us life and been our support for many years. We respect them. It is now time for us to give them support. Some day they will be gone from us.

If additional benefits are granted them, we ask that maybe in the form of preferred stock, that it must be protected from inclusion in any income for—income where it may affect their eligibility for present or future assistance programs.

Again, I'd like to say options, given choices, individual choices to villages, village corporations, regional corporations, because we all are different, have different needs, different goals, different circumstances. And also, to include all of our children who did benefit from the Act, and to carry on when we are gone, and our elders, who will be gone and who have left us to carry on.

Thank you.

Senator WALLOP. Thank you, Ms. Pitka.

Senator MURKOWSKI. I have one question of the witness, Mr. Chairman.

You indicated that there should be consideration given to those who missed being included in the original eligibility, and also mentioned consideration for the elders, additional benefits, such as preferred stock and whatever.

Do you have any specific suggestions, say, the elder now who is facing the issue of just 1991 alone. That means that you're extending for him his option which is currently that in 1991 he could sell his stock, or she could sell her stock. Maybe they're in their sixties and won't be able to take advantage of another 20 years or an indefinite period of time. So during their life-time they cannot use their stock for any specific purpose; they can't borrow on it, they can't pledge it, they can't sell it. That is circumventing, theoretically, an option that they currently have. So they would be given up the ability to use their share of stock or their ownership.

And my question is, what do you suggest you give them in consideration?

Ms. PITKA. Well, wouldn't preferential stocks——

Senator MURKOWSKI. Well, it wouldn't have any value, would it? Can they do anything with it, can they sell it, can they borrow against it?

Ms. PITKA. To my knowledge, preferential stock would allow a corporation to perhaps distribute them a dividend or a higher dividend than the common stock.

Senator MURKOWSKI. It would allow that option, certainly, if that were the decision of the corporation.

Ms. PITKA. So that would be one option. There would be other options, such as a type of policy where they could be drawing some interest off of, interest-bearing.

Senator MURKOWSKI. If the corporation wanted to put up its earning capability in some manner or form for the elders it could be done, no question about that. That is strictly at the pleasure of the shareholders of the corporation to make that determination.

The other question is, if you expand the original number who were incorporated into the corporation, that means you would have to dilute your original ownership.

Ms. **Pitka**. Yes.

Senator **Murkowski**. So that the people would have to vote and turn in their stock to reissue more stock. That's what you're suggesting.

Thank you, Mr. Chairman.

Senator **Wallop**. Thank you. Thank you all very much.

The next panel is: Steven Nikolai, Dorothy Anderson, Gabriel John, Alfred Ketzler, Sr. and Oscar Frank.

We will begin with you, Dorothy Anderson.

STATEMENT OF DOROTHY A. ANDERSON, DELEGATE, THE TAKOTNA VILLAGE COUNCIL

Ms. **Anderson**. Thank you, Mr. Chairman.

I am Dorothy Anderson, a Delegate from the Takotna Village Council. I am here to support the testimony of Tanana Chiefs Conference.

I especially want to emphasize Section 4. I am in favor of automatic extension of restriction on the stock because many people do not realize what effect the loss of stock can have on them.

I also emphasize the problem of transfer of stock to non-Natives. The transfer of stock to non-Natives means we would eventually lose our stock through divorce and inheritence.

I am in favor of the whole concept of Senate Bill 2065, but feel that Native control of NACSA stock should be greatly stressed.

Thank you.

Senator **Wallop**. Thank you, Ms. Anderson.

Would you identify yourself, that would save me running through the list trying to find you.

Mr. **Frank**. Okay. My name is Oscar Frank.

Senator **Wallop**. All right. Thank you. Please proceed.

STATEMENT OF OSCAR FRANK

Mr. **Frank**. Mr. Chairman and members of the committee.

As I said earlier, my name is Oscar Frank. I'm a shareholder of the Regional Corporation of Sealaska, and the Village Corporation of Yakatat.

I support the Senate Bill 2065 and also the House Bill. And whichever bill manages to make its way through Congress—I hope it goes through Congress this year.

I would like to talk about a couple of things, the children and the land. I think that children should be able to—children born after 1971, should be able to receive benefits from ANCSA. I have no problems for my own self in sharing benefits with my own children. It just seems to me that it's fair and it's equitable for those children.

In terms of land, I think that I share a lot of concerns with Natives about the loss of the land; for example, take-over attempts, adverse position or taxation of undeveloped lands.

I would not want to see undeveloped lands taxed. If these were to occur, I think we would see a lot of land loss in Alaska, and land being removed from the ANCSA corporations.

In summary, I think I would just to—in the bill, whichever bill passes, or that goes to a conference committee, that there be provisions allowed for children, and also, the undeveloped lands shouldn't be taxed.

I think that if we keep reminding ourselves why there was a settlement, I think that the rights of the people as a people will be protected.

I want to thank you for conducting these meetings, and appreciate the opportunity to speak to you today.

Thank you.

Senator WALLOP. Thank you, Mr. Frank.

Let me ask one question of either of you, concerning the problem that was raised, the transfer of stock to non-Natives. Should stock be transferrable amongst Native enrollees of a corporation, and should it be possible, for example, if you and Mr. Frank were in the same corporation, for him to acquire yours or you to acquire his?

Ms. ANDERSON. I think that eventually, if you continue to pass through stock to non-Natives through inheritence——

Senator WALLOP. No. I'm not talking about non-Natives. I understand your problem about doing that. I'm now asking whether it should be transferrable between Natives. Should Mr. Frank be able to acquire your stock?

Ms. ANDERSON. It should go back into the same corporation.

Senator WALLOP. But what I'm asking is, should Mr. Frank, if you were from the same corporation, be able to buy your family stock?

Senator MURKOWSKI. If you want to sell it.

Senator WALLOP. Yes. I'm assuming that you wish to get rid of it and he wishes to buy it, should that be allowed?

Ms. ANDERSON. I don't think that's been discussed very much in my——

Senator WALLOP. Yes, I'm sensing that, but I think you had better start discussing it, because either it has some value or it has no value. Either it enrolls people, like people on a reservation in the lower 48, or——

Ms. ANDERSON. We have discussed the option of selling the stock back to the corporations first.

Senator WALLOP. Yes. But I'm trying to get across what happens with the stock. If, for the older people, as was suggested earlier, they have some sort of preferred stock, and it's not transferrable even amongest Natives, of what value is it to anyone?

In other words, I think there has to be some concept that it is either genuinely valueless, in which case there's no point in distinguishing between classes of it, or it has some value. Then the question is, to whom can that value ultimately go?

If it is amongst Natives within the same corporation, it's not hard to see how you would have a Native Rockerfeller. I'm trying to find out what the concept is here that you wish to have established.

Mr. Frank.

Mr. **Frank**. I have no problem with acquiring shares within my regional or village corporation. I think that's an opportunity I'd like to pursue, if I had the cash.

I think that's an asset that I would like to increase. If I were in a position to purchase those stocks, I would like to share those traditional stocks with my family and my children.

Senator **Wallop**. That's the concept that I'm trying to develop here, that clearly there would be some reason to do that.

Mr. **Frank**. Say, for example, if I were able to acquire additional shares of Sealaska, shares of Yak-A-Tat-Kwaan, I would certainly do so.

Senator **Wallop**. I hope that those who have remained and who may be viewing these proceedings begin to sort of work that concept through. Because I can understand the desire to protect it from the outside, but I can't understand any desire to make different classes of stock or to give more to old people, to village elders or anything else, unless it's just sort of a passing sign of respect, and that's hard to make a living on. And if the idea is that the elders, who brought people along, have the rightful respect of those below them, you're going to have to make some sort of value to accumulate. Either they provide a better income because they have them, or they're transferrable to the grandchildren of elders or what have you.

Frank, do you have any questions?

Senator **Murkowski**. I don't have any further questions. Thank you.

Senator **Wallop**. Thank you both very much. I appreciate your coming.

Mr. **Frank**. Thank you.

Ms. **Anderson**. Thank you, Senator.

Senator **Wallop**. Mr. Richard Peters, Mr. Ken Chase, Mr. Adolf Hamilton, Mr. William Painter.

I have a one-in-four shot of hitting you, or would you just tell me who you are?

Mr. **Hamilton**. Adolph Hamilton.

Senator **Wallop**. Mr. Hamilton, please proceed.

STATEMENT OF ADOLPH HAMILTON, IRA COUNCIL

Mr. **Hamilton**. I am Adolph Hamilton. I am testifying for IRA Council for Shageluk, Alaska.

I request transfer the corporation stock, land, and selection to tribe government control.

A small village coop are not in no position to hold lands used for the future generations.

Tribe land should not be taxed. Amendment to the Native Land Claims Settlement position, otherwise, we will not lose our lands.

Senator **Wallop**. Thank you, Mr. Hamilton.

Frank, do you have a question?

Senator **Murkowski**. I have no questions.

Senator **Wallop**. Thank you very much. I appreciate your taking time to come down here.

Rose Atuk Fosdick, Joe Joyner, Bud Kelly, Tom Prenzel, Elsie Crow, Cerene Paul, Gene George, Kathy Roberts.

Ms. Fosdick.

STATEMENT OF ROSE ATUK FOSDICK

Ms. **Fosdick**. Mr. Chairman, Senator, thank you for the opportunity to speak.

My name is Rose Atuk Fosdick, and I'm a shareholder of the Bering Straits Native Corporation. I'm in favor of passage of Senate Bill 2065. I will be talking on stock, land protections and options for dissenters.

My parents and my ancestors before me have been here for thousands of years. At the time in written history when Julius Caesar was alive and ruling Rome, the Aleut, Eskimo and Indian people were here. We were the majority in Alaska. And we have been here before that time and since.

Others come and go, but this is where we call home, because we love this land and it has treated us well.

Our cultures, including our arts, languages, economies, histories and laws have developed here during the past few thousand years. And we have a right to our culture, and we want to protect it from further dilution.

In order to keep our culture intact, we need to have equity in ANCSA, which Congress enacted. Corporations need continued stock and land protections in order for the Alaska Native Claims Settlement Act to be the fair—to be fair. The assets, awarded land, needs to be protected. In other legal settlements, the assets granted are not given contingent upon success or failure of the beneficiaries' ability to manage their assets.

In the corporate world, announcement of sales of stock are not given 20 years ahead of time. Other corporations are not dictated by the federal government to make their stock available on the market on a certain date.

But if corporations choose to gamble their assets through stock alienation or by development of their lands, then that should be their options, but at their discretion.

Some corporations would like to keep their settlement assets intact, and that is a fair settlement.

Alaska Native people are family-oriented. The cut-off date differentiated the status of the individual family members.

I'm sure there will be dissenters. I have already heard Native people say they will sell their stocks if their corporations continue to withhold any benefits from them. And being a shareholder of a corporation which has filed Chapter 11, I realize the vulnerability of corporations to bad investments, decisions and managements.

Future generations of my family will not even have an opportunity to decide on the state of the assets that were granted to my generation. But we, in the Bering Straits, are still people with distinct cultural identity, and the Alaska Native Claims Settlement Act did not change my identity.

The precedents that our bankruptcy case sets will be new precedents. Other corporations and my fellow shareholders will learn from these mistakes.

I support these amendments to ANCSA, because these amendments give Alaska Native people options and allows Native people to decide their own futures.

Alaska Native people have been working on these legislative amendments for a long time, and we are concerned for the future.

Thank you.

[The prepared statement of Ms. Fosdick follows:]

Rose Atuk Fosdick
SR 20296
Fairbanks, Alaska 99701

STATEMENT IN SUPPORT OF S. 2065

I am in favor of the passage of Senate Bill S. 2065.

At the time in written history when Julius Ceasar was alive and ruling Rome, the Aleut, Eskimo and Indian people were the majority in Alaska and we have been here before that time and since. Others come and go but this is where we call home because we love this land and it has treated us well. Our cultures, including our arts, languages, economies, histories and laws have developed here during the past few thousand years. We have a right to our culture and we want to protect it from further dilution. Its not a matter of we against them, its a matter of we want to keep our culture intact. In order to keep our culture intact, we need to have equity in ANCSA which Congress enacted.

ANCSA which some people viewed as social engineering or a way for assimilation of Alaska's peoples, has affected all Alaska Native people and their cultures. Some people now spend more time talking about shares, dividends, proxies, quorums then they do about gathering food, storing food and sharing, which is our original economic backbone. So now we spend time on corporate matters but that doesn't mean we equate owing of corporation stock to being Alaska Native. We are Alaska Native people with corporate stock.

The corporate world dictates that in order for success, an individual invests his or her assets for individual gain, which goes against Alaska Native cultures' survival instinct which is sharing.

But ANCSA is federal law, the supreme law of the land now, and we'll do the best we can because we are survivors.

Corporations need continued stock and land protections. In order for the ANCSA to be fair the asset awarded, land, needs to be protected. In other legal settlements, the assets granted are not given contingent upon success or failure of the beneficiaries' ability to manage their asset. In the corporate world, announcement of sales of stock are not given 20 years ahead of time. Other corporations are not dictated by the federal government to make their stock available on the market on a certain date.

But if corporations choose to gamble their asset through stock alienation or by development of their land, then that should be their option but at their discretion. Some corporations would like to keep their settlement assets intact, and that is a fair settlement.

Alaska Native people are family oriented. The cut-off date for enrollment differentiated the status of individual family members. The settlement also failed to recognize elders' valuable contributions and their lack of benefits available to them in their lifetime. Corporations need the option of including New Natives as shareholders and to make special categories of stock available to benefit elders.

There will be dissenters. I have already heard Native people say they will sell their stock if their corporations continue to withhold any benefits from them or if their corporations dilute the value of their stock by restrictions and issuance of new stock. In an otherwise normal corporation, those dissenters would have rights. But these are not normal corporations, these are corporations involving a whole group of people, cultural units. Those people should decided on their own whether dissenters rights should be granted.

Being a shareholder of a corporation which has filed Chapter 11, I realize the vulnerability of corporations to bad investments, decisions and management. Future generations of my family will not even have an opportunity to decide on the fate of the assets that were granted to my generation. But we in the Bering Straits are still a people with a distinct cultural identity and the Alaska Native Claims Settlement Act did not change my identity. The precedents that our bankruptcy case sets will be new precedents. Other corporations and my fellow shareholders will learn from these mistakes.

I support these amendments to ANCSA because these amendments give Alaska Native people options and allows Alaska Native people to decide their own future. Alaska Native people have been working on these legislative amendments for a long time and we are concerned for the future. Thank you for the opportunity to make my views be heard.

Senator **Wallop**. Thank you, Ms. Fosdick.

Mr. Joyner.

[No response.]

Senator **Wallop**. Mr. Kelly.

[No response.]

Senator **Wallop**. Mr. Prenzel.

Mr. **Hill Gardner**. Mr. Chairman, my name is Tom Hill Gardner. Mr. Prenzel deferred his slot today to me. Is that permissible?

Senator **Wallop**. All right.

STATEMENT OF THOMAS HILL GARDNER

Mr. **Hill Gardner**. My name is Thomas Hill Gardner and I'm Area Coordinator for the Alaska Public Interest Research group.

I have been a resident of Alaska for three years. I was born and raised in New York City.

That the Alaskan Native is the richest American Native is a great falsehood. ANCSA, as passed in 1971, by and large was pushed through because of large oil interests and not because of deference to the Native people.

It was a noble attempt, but haste makes waste. Preservation of the Alaskan Native culture and heritage requires the preservation of Alaska Native lands. Do we want to preserve these people and their culture only until 1991?

I have heard over and over again today that so-called sportsmen and outdoorsmen care for the Alaskan Natives, yet they want their lands. We're not trying to restrict their recreational activities, we're just saying they can't do it here in a certain particular place. And they do not like this.

It bothers me that what we're choosing here between is one man's recreation and cultural genecide. This further bothers me when we see many members of Congress from both parties talk about the cultural genocide perpetrated on the Mosqueto Indians in Nicaragua by the Sandinistas.

This has always bothered me because our country's attitude towards our people, the aboriginal people on this continent, and I'm wondering today whether that policy of callus—that that callus attitude is going to continue.

We have here a chance to perhaps for the last time in our country's history, to remove some of the tarnish from the badge of shame that this country has because of our attitude because of aboriginal people in this nation.

We, the white man, are the dominent culture. We can devour and assimilate the Alaska Native people, or we can preserve their culture and heritage. It is up to us. The ball is in our court.

In regard to some specific provisions, I'm concerned—and this would be a white-man concern—about the status of ANCSA lands which are surrounded by ANILCA lands, and with stock alienation and taxation and other means by which the corporation, as a vehicle of preserving the Alaska Native lands, subjects this land to the loss of these Native people.

I am concerned that some lands that we are interested in preserving will be open to interests, such as ARCO and COMINCO, for economic development.

I thank many other people have spoken about the taxation, stock alienation and non-issuance of shares since 1971 to Alaska Natives, so I won't go on with that.

I will just say thank you for letting me speak here today. I especially commend you, Senator Wallop. You are the only person from the United States Senate who has felt that this issue, which deals with such an incredibly large piece of land and such an important issue, that you should come up here and hear us. I thank you very much. I thank you, too, Senator Murkowski.

Senator WALLOP. Thank you, Mr. Hill Gardner.

Elsie Crow.

STATEMENT OF ELSIE M. CROW

Ms. CROW. Hello. My name is Elsie Crow. I am originally from Barrow, and belong to the Arctic Slope Regional Corp.

I would like to address an issue to be made aware of at this hearing.

Twenty years ago I, like many others, applied for Native allotments in Barrow.

In the distribution of land conveyed to the corporations, we have been totally overlooked by the Bureau of Land Management.

The first excuse was that the land applied for was on Petroleum Reserve No. 4. Then the Native Claims Settlement Act came along, and we were told to wait until it passed.

After it passed, the land was conveyed to the corporations, completely ignoring our allotment applications.

Mr. Arndorfer, of BLM, says that private legislation is needed to get title to this land.

That is why I'm addressing this issue at this hearing.

Senator WALLOP. Thank you, Ms. Crow.

Cerene Paul.

STATEMENT OF CERENE PAUL

Mr. PAUL. Mr. Chairman, thank you for allowing me to say a few words.

I only have a small, short prepared document here. There have been many quite eloquently, well-written documents earlier today, and I do hope maybe betweenst all of you, after the smoke clears away, that you can get to the meat or the substance of why we're here. I believe this has been overlooked to a great degree.

I'm not necessarily in favor of, or against these amendments. I think there are good parts coming and going. But I will just read my statement, and I have a few questions that I would like to ask, if I may.

Senator WALLOP. Well, we are holding the hearing. You can make the statement.

Mr. PAUL. I have read the proposed amendment to ANCSA. I find the amendments almost impossible to understand, and feel that many Alaskans are in this same predicament.

The amendments need to be written in a clear and understandable language so that the scope and intent is understood by one and all.

There is ample time between now and the year 1991, and I see no need to rush the proposals through. Only, and until thorough discussion and testimony have been heard should any action be undertaken.

The time table set for these hearings is totally inadequate, and I urge you to allow as much time as is needed for this very important event.

I would like to state here, sir, if I may, that you have stated that the calendar and the funds are practically expended already for this very important testimony. And I would like maybe to have this tacked onto next year, and this would give more time and also maybe the funds necessary to go on ahead and hear more people talk about this very important issue.

It may be that some changes are justified and some fine tuning may be needed. However, I maintain that the Federal Government, the State of Alaska and the Natives of Alaska made a deal in 1971, and that the scope and intent is unalterable.

Any action taken by the Congress of the United States that changes this unique agreement will be a calamity to all Alaskans.

We have said a lot about sovereignty and the issue of sovereignty, and it is my contention that no one here believes that this has anything whatever to do with sovereignty. So I would like to state if any changes are made, a disqualifier statement in big bold letter must follow, stating: That nothing in the preceding amendments to the 1971 Act may be an instrument to allow or further the necessary condition to create sovereignty or sovereign Native states in Alaska.

And I can see absolutely no reason why this should not be possible, because everyone here believes that this has nothing whatever to do with sovereignty. So this would certainly seal the fate of the whole Act.

Senator WALLOP. Thank you, Mr. Paul. Mr. George.

STATEMENT OF GENE A. GEORGE

Mr. GEORGE. Mr. Chairman. My name is Gene A. George, from Fairbanks. I'm an Athabscan, originally from Stevens Village.

Certainly we are here today to once again ask the United States Congress to protect the human-rights issue related to the 1991 legislation now before the Senate.

I have no other alternative but to agree with the amendments contained in S. 2065. However, it is my belief that the section on 7(i) is the only part of this bill that does not have the concensus of the Native people as a whole.

Mr reason for this statement is that the regional corporations made an agreement among themselves on June 29th, 1982; let me state this agreement does not reflect the wishes of the village corporations or the tribal governments, of which the Alaska Federation of Natives claim they have a concensus of.

If the wisdom of Congress can find a formula to enhance the village corporations' monetary status, then I believe we have here a bill that the Native people can live with.

I would like to comment on another section which the non-Natives do not understand, and that is Section 7(c), pertaining to tribal governments.

This section must be left intact as is. My friends, you are not the recipients of the Alaska Native Claims Act and need this language so that they will have a clear understanding that the Senate Bill No. 2065 is for amending ANCSA.

It is not a declaration of tribal sovereignty. Tribal sovereignty was here long before my non-Native friends migrated to Alaska. There is no claim whatsoever by the Native people for sovereignty. They already have sovereignty as mandated by Congress through the IRA Act of 1934. Let me assure you that the Alaska delegation to Congress is not on the Native people's side when they speak out and say that sovereignty must not be an issue of the amendment. I believe that, because we are talking of federal law, and they have no authority to change the law pertaining to tribal government. The full congress has that right.

But believe me, when the time comes to diminish the human rights of the Alaska Natives by taking away their sovereign right to govern themselves, the congressional delegation from Alaska will use all the power they have to strip the Natives of this right. Thank God our Alaska delegation is not the sole Congress, but a majority of the Congress is needed in order to change Federal law.

Until that time comes, our Alaskan delegation must administer and abide by those laws.

I would hope that other members of Congress would have a chance to talk to tribal members and not just Native leaders in order that the Alaska Natives' human rights will be protected by the law.

And let me just insert here that I may correct our Senator from Alaska, Mr. Murkowski. You stated in the Fairbanks Daily News Miner that the majority of the Alaskan Natives agree with the Alaska Native Land Claims Settlement Act. I would like to refute that now and put it on record that it was the Native leaders that did this. And I already went on record saying that this Act was illegal from the beginning.

Senator WALLOP. Thank you, Mr. George.

Mr. GEORGE. Now, let me finish my statement.

Senator WALLOP. Mr. George, the time has run. Would you summarize your statement.

Mr. GEORGE. I will. Thank you for letting me take part in this historical event in dealing with the American Indians and their issues.

It is good when we can sit down and reason together on fair and equitable changes to the Alaska Native Claims Settlement Act.

Senator WALLOP. Thank you, Mr. George.

Kathy Roberts.

[No response.]

Senator WALLOP. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Rose Fosdick. In your statement, you indicated that you have heard the Native people would be willing to sell their stock if the corporations continue to withhold any benefits from them if the corporation dilutes the stock or the value of the stock.

I'm concerned about that, because that reflects directly on the concern over taking care of those born after 1971, which would necessitate diluting the stock. I'm wondering if you could clarify that for us?

Ms. FOSDICK. Well, the corporation is such a new concept to a lot of people, and realizing that tribal—it was not individual rights that was given up, it was tribal rights to lands that was given up. A lot of Native people who aren't aware of this feel as individuals that they have some monetary value coming to them. And those are—I've heard, it's not very many people—I have heard——

Senator MURKOWSKI. So you don't think it's necessarily a threat. It just represents the opinion of some of the Natives.

Ms. FOSDICK. No. That statement was made to make you aware of that, that there are dissenters, there will be dissenters in the future because there already are people who are talking about monetary value that they aren't receiving right now. And it's a very small number of people that I'm talking about.

Senator MURKOWSKI. Thank you.

I would think it also appropriate that I reply to Mr. George with regard to the reference that this legislation is the concensus of the Alaska Native community.

I will clarify the specific reference to that, sir, which I assume is represented in the Alaska Federation of Native in convention, as represented by the specific resolutions which came out of that convention. And I, quite naturally, assumed that that represented the majority of Alaska's Native community in convention, voting out a series of resolutions which were presented to the delegation.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you. Thank you all very much.

The next panel: Jonathon Solomon, Pat Stanley, Grenelda Edmiston, Sarah James, Eleanor Sweetsir, Walter Carlo, Marjorie Mayo, and Shirley Butler.

STATEMENT OF JONATHON SOLOMON

Mr. SOLOMON. Mr. Chairman, my name is Jonathon Solomon. I am here today to testify on behalf of myself and my family, who all live in the Village of Fort Yukon, Alaska. And there are about 600 interior Athabascan people living in Fort Yukon, and about half of them are Solomons.

My testimony today is in support of 1991 issues in Senate Bill 2065 and House Bill 4162.

Mr. Chairman, these two bills amend the Alaska Native Claims Settlement Act to protect the ownership of Native stock and Native lands for future generations of Native people.

Mr. Chairman, I am here today, and we are all here today to defend the rights of our lands, our culture and our heritage.

Mr. Chairman, I have lived all my life in the village as a tribal government way of living, which is a subsistence way of life for the Native peoples.

In 1971, the Alaska Native Land Claims was enacted. And the first board of directors of our village corporation did not know what a corporation was, but they were asked to do things and to invest and to make decisions in a corporate world that they could not understand.

There are still tribal people in my village that don't even know what the Alaska Native Land Claims Settlement bill is. But we're learning. It takes time, as you know, because of the Western culture that you get your education and you go to 16 years of school.

Mr. Chairman, we didn't know 16 years ago about corporations, and if you expect us to learn that in less time than you would in your education, then, Mr. Chairman, I don't understand that.

We are a tribal people and want to make our own decisions about our lands and our future of what our corporation is going to turn out to be. And we support, Mr. Chairman, I support the statement that was made by the President of the Tanana Chiefs Conference.

And finally, Mr. Chairman, if our land and our way of life are not protected for our people—and, Mr. Chairman, if I live long enough—that I am not 54 years old—that if these things do not be protected, as a tribal person, I do not want to be in existence, but I would not go and take a gun and blow my head off, I would take a gun and defend my culture and die a proud man. Thank you.

Senator **Wallop**. Thank you, Mr. Solomon.

Pat Stanley.

[No response.]

Senator **Wallop**. Grenelda Edmiston.

[No response.]

Senator **Wallop**. Sarah James.

[No response.]

Senator **Wallop**. Eleanor Sweetsir.

[No response.]

Senator **Wallop**. Walter Carlo.

STATEMENT OF WALTER CARLO

Mr. **Carlo**. Good afternoon. My name is Walter Carlo. I'm an Athabascan Indian. I'm enrolled to the Village Corporation in Tanana, and I'm on the—belong to the Native Council

I want to go on record supporting Senate Bill 2065. I support all those concepts. As you know, I believe in the restrictions that would be placed on that stock; I'm married to a non-Native. I have been married to that person for 8 years now. We are happily married. We have two children.

I was concerned. The thought came to my mind when I married here about the inheritence of the stock. So I immediately after I got married, I believed the stock should always be inherited and it should always go to the generations that follow; that it have Indian blood. And I put that restriction on the back of my certificate, that if anything should happen to me, that stock is going to be voted by the corporation or a relative other than my wife, and she would not inherit that stock. I don't want to see that stock going down to Tulsa, Oklahoma, or Texas or wherever. It belongs to the people, the Native people. And it should be that way forever.

The land—we have delicate ecological system. When colonists landed on our shores, they started to destroy that. It takes all of Alaska to support the Native people of Alaska, and it took thousands of years to reach each tribe to divide up the land so they could fish and hunt on those areas.

And we have spent a lot of our money through these Land Claims, trying to get a clean title, and we still don't have it.

And I just want to say that I want to see all that land restricted and put aside forever for our Native People.

And I also support the legislation to make sure that generations to come have that same use of the lands that we have had for thousands of years.

Thank you.

Senator **WALLOP**. Thank you, Mr. Carlo.

Marjorie Mayo.

STATEMENT OF MARJORIE MAYO

Ms. **MAYO**. I'm an Athabascan Indian Tribe from Stevens Village, Alaska.

I am—I have not—ANCSA has worried me since day one and it's getting worse. Because my village is all strictly a tribal village. It always has been and we're hoping that is always will be.

We are a proud people. Why did—well, I have the same rights as the lower 48 Indians have. My clan is Caribou and my tribe is Athabascan. And still, my rights are different—ANCSA caused me to be different from the lower 48 tribes. And that's really hard to swallow.

Corporate system is not working for a lot of people, especially the villages that's tribal. I'm just now about coming around to learning a bit about ANSCA, and I know that a lot of the people in the village don't understand it as yet. And we are being forced to fight—we are being hit, it seems, from all sides.

I know this because I listen—there's a local talk show, the news media. We are being talked about like we were just nothing, but we are real, live people.

And there are real, live people out there in the villages that you people would never know what it's like to live in the village and to go out hunting and live a subsistence life.

Although I am from Stevens, I am living in Fairbanks. So that puts me in a different basket again when it comes down to subsistence.

A lot of people are fussing about subsistence. Well, I too, am suffering from it. But that's the way it is.

My people—my ancestors have practiced environmental, they were good environmentalists, preservationists. Why do you think that we are here today? It was because of our ancestors leaving the land in good shape to us.

And I would like to see my future generation enjoy it the same way that my ancestors and I have enjoyed it.

There's—ANCSA has lost a lot of—I mean it has—it has been causing a lot of discrimination. It seem that the non-Natives are trying to wipe us off the face of the earth, but that's not going to be. I don't think that it will be that way. After all, we are people, with same rights as anybody else.

Senator **WALLOP**. I wouldn't agree with that. I don't think that anybody here is trying to wipe the Natives off the face of the earth.

Frank, do you have any questions?

Senator MURKOWSKI. I have no questions, Mr. Chairman.

Senator WALLOP. Mr. Carlo, I have just one quick question.

You say that you would like your stock to go to your children. Is that correct, What then happens if either or both of your children marry Non-Natives, and your grandchildren?

Mr. CARLO. Well, it's got—the right to issue stock has to go to—cannot possibly go to non-Native.

Senator WALLOP. But pretty soon, if there were three generations of Carlos that each married non-Natives—you want you stock to go to your children. Is that correct?

Mr. CARLO. Hopefully.

Senator WALLOP. Well, that's what I'm saying. What happens then if your children marry non-Natives and they do the same thing to your grandchildren, and then your great grandchildren. Supposing that should happen?

Mr. CARLO. Well, hopefully, our shareholders will push to have that stock restricted where it does not ever go to a non-Native.

Senator WALLOP. Well, I guess my belief is that after about four generations, if that were to take place, if your children were to marry non-Natives and their children were to marry non-Natives and your great grandchildren married non-Natives, you would have——

Mr. CARLO. There's going to be some Native blood in there along that line somewhere.

Senator WALLOP. All right. That's an interesting thing, but I just wanted to have it understood that that's what's implied, that pretty soon, they are, by any measure——

Mr. CARLO. You're getting into blood quantums.

Senator WALLOP. Yes, that's right. But you don't mind it going down in that direction?

Mr. CARLO. No. I'd like to see our shareholders of our corporation, hopefully, decide that no stock can ever be inherited by non-Natives.

Senator WALLOP. You don't think that they might make the determination that after five generations of marriage out that they might be non-Native?

Mr. CARLO. I hope my kids are smarter than that. [Laughter.]

Senator WALLOP. All of us hope that of our children. But let me tell you that you have very little hope of having them be what you want. I have got four of them, and they're all fine people, but none of them went the direction that I particularly had in my mind when they were born. You will find to your great delight and also your dismay that they're totally what they are.

Thank you all very much.

Senator MURKOWSKI. I have just a brief question for Walter Carlo.

In the concept of what we're discussing here, while it does offer a continuity and an assurance that the stock will not transfer outside of Native control, it also visibly limits the ability to use that stock for its intended purpose, which is the individual ownership that every Native participant has that's enrolled. He has so-many shares of stocks, he or she.

So what we're saying is that this stock cannot be used to enable a Native person to go into business, to pledge that stock, to borrow money against it. These are things that you understand you're eliminating.

So, really, what you're doing is, you're not utilizing the stock in relationship to its value, whatever that value might be, because you're limiting what you can do with it. You might say that it's so restricted the benefits that an individual enrollee would receive from the stock would be almost limited to the dividends that would come in from the revenue potential of the village corporation, the regional corporation or whatever.

And that, I quess it's fair to say, probably wasn't the design originally intended when the concept of Natives restablishing reservations versus corporations was brought about. And they established corporations through their own choosing, and how the testimony is suggesting they limit specifically the activities asociated with that stock ownership.

I think the futher comment expressed by Marjorie Mayo is one that I have seen as a theme coming out of this, Senator Wallop. And that is that in many cases, the corporation just does not work for the villages that are tribal based. And I can appreciate and understand that. And it is certainly a conflict. They're just not designed for each other.

Senator Wallop. Thank you. Thank you all very much. I appreciate it.

Panel No. 20: Mr. Ken Housley, Ms. Harriet Jones, Martha Barron, Jackie Baalam, Dee Olin Hoffman, Dorothy Anderson, Jeanette Scannell, Georgianna Lincoln. Dee Olin Hoffman. Please proceed.

Ms. Hoffman. Me first?

Senator Wallop. Yes, please.

STATEMENT OF DEE OLIN HOFFMAN

Ms. Hoffman. Thank you very much for allowing me the opportunity to testify.

My name is Dee Olin Hoffman, and I'm from Ruby, Alaska. I'm a member of the Eagle Corp., and I serve on the Board of Doyon Corp. And I am speaking today as a individual Athabascan Native.

I would like to speak on four things; the purpose of the 1971 Act; where are we after 15 years; why we need this extension of time, and the purpose of the 1991 amendments.

The purpose of the 1971 Act was to do two things: to settle the question of land ownership. We have 375 million acres inland in Alaska, 375 million coastal acres. The Alaska Natives settled for 44 million acres in 1971.

The second purpose of the Act was to provide for economic benefits. Now, where are we after 15 years? The immediate economic benefits of the Act have helped two groups of people and left out a third.

State Government has leased acreage to private entities for mineral and oil exploration and production. The oil companies have realized billions of dollars from the settlement of the 1971 Act. The

Natives today are still struggling with the issue of economic development.

I have heard argument that we have received much, yet, if you look back over the years before the Act, we had complete freedom to harvest natural resources. Today, because of limitations and restrictions from federal and state governments, many of our Native people in the villages are in poverty.

Why do we need this extension of time? You keep asking questions here that we still don't have the answers to, because we have not reached those stages.

Village and regional corporations are now displaying the leadership that was much needed in 1971. Culturally we have the mentality of day-to-day survival and the need for all of us to share communally in order to survive as a people.

The handful of Native leaders that participated in 1971 had no idea what the long-term ramifications would be. Since, then, the losses have been very damaging for some village and regional corporations.

Now, the purpose of this 1991 amendments is an opportunity for the turn-around; a turn-around for village and regional corporations, provided by Senate Bill 2065.

Corporations are now developing corporate business plans that are acceptable, both to Native and to non-Native world, if these amendment pass.

Continued stock alienability restrictions, additional protection of Native lands, including Natives born since 1971, special provisions for elders, all of these are going to take time to incorporate into our corporate structure.

That is acceptable both to the Native and the non-Native world.

I feel that this bill addresses the 1991 concerns of the statewide community, and provides options that do accurately reflect the differences in needs among the various Native regional and village groups.

In closing, I would like to make this body aware of the fact that the United States government Constitution is based on democratic principles. Because of this democratic process, the Native American Indian is one of the few indigent peoples of the world who have a lawfully-recognized settlement with their government.

Someone mentioned here earlier that the South American Indians are being systematically killed off by their government so that there will be no need to settle land and resource development with them.

If we do not amend the 1971 ANCSA Act, then I will assume that the United States government set up for failure our corporate structure, by forcing us to keep a system unworkable and unacceptable now to the Alaska Native people.

Please keep the democratic system alive in Alaska by passing these amendments necessary to our corporate well-being. These amendments will allow us time to plan for our future by providing economic and social long-term benefits.

If you pass this it will be a feather in your hat. The feather, a symbol that you believe in the protection of private land ownership and business ownership.

Thank you very much.

Senator **Wallop**. Thank you.

Dorothy Anderson.

[No response.]

Senator **Wallop**. Jeanette Scannell.

STATEMENT OF JEANETTE SCANNELL

Ms. **Scannell**. First of all, I would like to welcome all of you to our state of Alaska and the City of Fairbanks.

My name is Jeanette Scannell, and I'm originally from the Village of Tanana, but I now live in Fairbanks.

I am here to testify in favor of the 1991 amendments. I would like to speak on two issues I feel that is important. The Native culture and our land. What a Native culture is to me, as I perceive it, is, we have a culture that has been passed on since who knows when. Scientists say 10 thousand years. That's a long time, considering the white man has only been here maybe 150 years. I use the term "white man" not in a prejudice context, but as lack of a better term.

In my culture we have our elders, the wise people. We listen to what they have to say. We have potlatches, we have numerous beliefs and traditions.

Then we have our land base. Native people subsist off the land, because the majority of people are poor, according to the monetary standards of the society today.

But in reality, we are rich in culture. We cannot lose our lands, because if we do, you, the congressional delegation and senators, will be responsible for wiping out a Native culture that is truly rare and unique.

In this world today we are all people, and we will coexist with everybody. But please, let us preserve our culture and heritage.

I urge you to vote in favor of these amendments, please.

Thank you.

Senator **Wallop**. Thank you, Ms. Scannell.

Georgianna Lincoln.

STATEMENT OF GEORGIANNA LINCOLN

Ms. **Lincoln**. Members of the committee, thank you for coming to Alaska to hear all of those before me and all who will testify after me.

I'm only sorry you couldn't have held more hearings in villages, where all amendments under Senate Bill 2965 truly affect the villages the most, and you could have seen first-hand what we only try to paint a picture for you.

I appreciate the Committee sitting here all day without a break, as I have too, and know how your stomach and other parts must feel.

I am Georgianna Lincoln, officer of the Rampart Village Corp. for the past 12 years, and board member of the Doyon Regional Corp. for the past 10 years.

Within the 3 minutes alloted, I will briefly express the areas of utmost concern to me. As the Chairperson of Doyon Shareholders Relations Committee from inception, the largest single concern expressed by shareholders is land protection: hold our land for those who come after us and after them.

Because Alaska Natives reside in a very unique state that has varied climates, land base, custom, economic base, one cannot except every village corporation and every regional corporation to reach the same goals by utilizing the same objectives.

That is why I fully endorse the present language of S.B. 2065 in providing options for each village and regional corporation to achieve the goal we all aspire to; survival of our way of life, our people, of our land, of our resources.

One of the mechanisms to do just that is by S.B. 2065, allowing undeveloped land to be nontaxable until such time as it becomes developed.

Natives must have assurances that undeveloped land will not be taken through taxation or other means. If this happens, it could be the demise of groups of Native people.

Presently, Native people continue to enjoy and care for the land and what the land shares with its people. Earlier testimony from Mary Jane Fate, the President of our Village Corporation, stated we operate conservatively.

Our village corporation has 92,160 acres of land. If these lands become taxable, what little dividend we have been able to pay our shareholders annually would be halted. Lands would have to be sold off to retain what little we could hold.

We don't foresee major development on our lands in the immediate future for our village. What purpose would be served to tax undeveloped lands, except for non-Natives to control Native lands.

Thirteen years ago, I urged our village corporations to slow the conveyance process down, because we were of the understanding that the 20-year grace period was to begin once all the lands were conveyed, not in piecemeal or not to begin in 1971. This is not to include the developed lands, however,

In summary, we, as Alaskans, must continue to work together to resolve any difficulties we may have and to ensure our State continues as a positive example for the remainder of the nation, but not at the expense of its aboriginal people.

If all regional and village corporations survive and prosper, that helps all of Alaska and all of its people, and the nation as a whole.

The potential economics to all of us is truly mind-boggling.

Again, I do appreciate you all coming here to hear all of us. Thank you.

Senator WALLOP. Thank you.

Frank, do you have any questions?

Senator MURKOWSKI. Well, with regard to Ms. Hoffman's testimony with regard to the continuity of the corporations, and then the reality of the private ownership aspects of the corporation. The testimony that we have heard is from those who want to restrict the stock within the corporation. So it's really not corporate stock any more, but it's kind of a hybrid that has many, many restrictions on it that differentiate it from corporate stock that you could borrow on or sell or do other things with.

I'm wondering if you would comment on how you feel, we walk this fine line, where the stock is different because the Native people want it to be treated differently, yet in so doing, they lose the full utilization of the value of the stock.

Ms. HOFFMAN. We don't operate that way because we are a tribal people. And, because of that, we have specific situations that are problems for us right now, because we don't know how to deal with it. There's no laws that are written; there's no lawyers that understand the tribal system. We hire them and we pay them, but we don't receive the answers.

So we need more time to have our own Native corporate lawyers who understand the cultural system as well as understand the corporate system so that we can incorporate.

Senator WALLOP. I can appreciate your frustration with some of the questions that we have asked, but I don't know how we can approach an understanding without asking questions.

Ms. HOFFMAN. Give us the extension and we'll have another hearing and we'll answer those questions.

Senator WALLOP. As you know, I'm in no desperate hurry to do anything. I came up here to learn, and I'm trying to do that, and it's necessary to ask questions however frustrating they may be.

But a point in fact, I still get the sense despite everything I've heard that you do not want that stock to be only a fishing and hunting license, that you want it to have some value individually to the members of the tribal corporations.

Now, the effort is to try to find some way to get there that maintains the level of safety until you do get there. That's all we're trying to do, and that's all I'm trying to do by probing, to see what is desired. I don't sense there is consensus even amongst tribes.

Ms. HOFFMAN. That's right, there isn't. I'm telling you that the corporations have a lot of work to do yet. You know, we are——

Senator WALLOP. But there never will be consensus. I mean each tribal entity or corporate structure will have its own way of traveling, I assume. There may be similarities, but basically, I sense, that there are some differences between the corporate structures already as to what they would like to do, and already in how they have handled it.

So the thing is to try to create a structure that embraces several options.

Ms. HOFFMAN. No. We believe that the amendments will give us the working tools to do that.

Senator WALLOP. Thank you all very much.

Senator MURKOWSKI. I have one brief question for Georgianna Lincoln, since she has had so much experience in working with the villages, and the fact that you have a duplicative corporate structure in each case, the regional and the village. The regions are truly the corporate entities that develop the internal sophistication, the management capability, and they understand the concepts of corporate law and what you can and can't do, and are really removed from the issue of tribal binding that exists in the relatively isolated village. But for the villagers, their first association is to each other in a tribal status.

So we have a distinct difference; corporation here, regional corporation, village. It's really a tribal function, but it is structure now as a corporation.

And I wondered, do you see, Georgianna, an eventual change through the evolution of being more familiar with the corporate status, or do you see just more or less a continuation of the separation of the villages because of their small isolation in some cases, maintaining the tribal association, first of all, to the detriment of the corporate structure and the regionals going on their way as corporate entities?

Ms. **Lincoln**. That's a real, real fine balance, I assure you, that has to be walked there. I think that the—I don't think that there is a regional corporation in the state that removes themselves from the village corporations. If we did that we wouldn't be sitting here today as board member of a regional corporation, I can assure you that, because it is those village people that put us on the regional seats.

So we're very conscious and work very closely with the village corporations to absorb what their goals are as well.

There are times when we are not going to be able to meet that, however. And I think that there will be, in all honestly, and I have said this before, that the village and regional corporations will butt heads, and that's inevitable. But I do feel that we have worked very closely together, unlike other corporations, that Dee has alluded to.

And I feel that we have changed over this last 15 years. We have seen village corporations merge. You heard testimony today of village corporations that are core villages together as one village corporation.

There was talk, I remember, in the very beginning of village corporations merging with the regional corporations.

I don't think we have explored all of our options yet. I think that there's many, many more down the road. But we are truly very young, and I think that we're not crawling anymore, but I don't think we're running. I think we're walking a fast pace.

Senator **Murkowski**. Thank you.

Senator **Wallop**. Thank you. Thank you all very much. It's a most interesting panel.

Panel 21: Jane Cosgrove, Donald Evans, Elizabeth Newman, Sharon Cummings, Renee Merry, Velma Schaffer, Linda Dunton.

Sharon Cummings.

STATEMENT OF SANDY CUMMINGS

Ms. **Cummings**. Thank you, Mr. Chairman, for the opportunity to say a few words in support of Senate Bill 2065.

My name is Sandy Cummings. I am a member of Baan-O-Yeel Kon Corp. and Doyon, Limited, Regional Corp.

I merely want to express the importance of giving options to village corporations and regional corporations, whereby, they can ask us shareholders what we want, and through out direction, take action to further protect our lands, our stock for future generations.

I believe if my grandmother, Udiddle Moff, were alive today, she would be sitting in the audience and nod her head in agreement and approval, to do all things necessary to ensure that our lands will be there for her great, great, great grandchildren.

Thank you for your time.

Senator MURKOWSKI. May I interrupt you very briefly. The chairman of our committee is leaving on an airplance and has to depart now, and I will be, I assume, with your permission, since I am the only other Senator around, taking over the chair.

Senator WALLOP. You have my permission. You have my command. [Laughter.]

Senator MURKOWSKI. I want to assure you, Senator Wallop, of our deep appreciation. I noted you haven't moved out of your chair all day. I have been in the back, made a few phone calls and done some other things. We all deeply appreciate the manner in whch you have conducted the hearing. We have moved through a lot of witnesses. I think we have certainly compiled, what I consider, an extraordinary record, a real full record, presenting the views on these issues. And I'm sure as you involve yourself in the examination of this record, you will have and be able to share with our other colleagues a deep understanding of just what the 1991 issue means to Alaska Native community as well as all Alaskans.

So on behalf of those who have been here today and those who have left, we are most appreciative. And we hope you will have a very safe trip back home and have an opportunity to come and be with us again.

And I personally want to thank you, my friend.

Senator WALLOP. Thank you, Frank. [Applause.] I will not rule that applause out of order.

Thank you all for the understanding of the time frame and your cooperation with it, because it's meant that those who come this afternoon have been able to be heard as well as those this morning.

It's a very complex issue. You have been very kind, very cordial, very warm to me and I appreciate it.

I, frankly, can't wait till I get back, but I may bring my mosquito repellant with me. Thank you. [Off the record.]

Senator MURKOWSKI [presiding]. Did you finish your testimony, Ms. Cummings?

Ms. CUMMINGS. Yes, I did, Mr. Chairman. I was wondering, would it be possible to read testimony of two members that are not here?

Senator MURKOWSKI. Well, they will be in the record as if read. That's the way we're conducting the hearing. In other words, anything you present to us will go into the record in its entirety as if read.

So if you would just indicate the name of the person that you are submitting it for, that would be all that is necessary. Go ahead and do that now.

Ms. CUMMINGS. This is for Elizabeth Newman from Rampart, Alaska, and Donald Evans from Rampart, Alaska.

Senator MURKOWSKI. Both the statements will be entered into the record.

[The prepared statements of Ms. Newman and Mr. Evans follow:]

May 24, 1986

A testimony to the Senate Energy and Natural Resources Committee.

Honorable Senators:

My name is Elizabeth Newman. I live in Rampart, Alaska. Rampart is on the Yukon River. I was born in Rampart and have lived there all of my life. I am Athabaskan. I am married and we have eleven children and sixteen grandchildren.

I am enrolled to the village corporation of Baan o yeel kon and the Regional Corporation of Doyon, Ltd. and I am a board member of the village corporation.

I am for Senate Bill Number 2065. One of the main reasons I am in favor of this bill is the section that will include natives who were born after December 18, 1971. At this time only one of my grandchildren belong to the Corporations, while the other fifteen are not included.

By being included they will own shares in the corporations and as shareholders, they will be able to use the land that God gave to all of us. They will have something to look forward to and be proud of.

It is important to the survival of our people to hold onto our land, for we are users of the land. The land is used for hunting, picking berries, trapping, logging and other ways. Without jobs and financial aid, the land becomes more important to our daily use. If we loose the land, hardship will never end.

We will strengthen the family unit by being able to include all of our native people in the Corporations.

Please vote yes to past this important Bill. Thank you for coming to Fairbanks.

SENATOR TED STEVENS
1991 HEARINGS
May 27, 1986

Mr. Chairman, the Alaska Native Claims Settlement Act broke new ground in American Indian law. Those of us who worked on the Act -- and very few of us remain in Congress -- had high hopes for the 1971 settlement. To a large extent, those hopes have been fulfilled. The settlement has opened new doors to Natives throughout Alaska and has become an integral part of the economic and social fabric of our great state.

The bill before the Committee today focuses on the other side of the ANCSA story. It is designed to address problems created by the federal government's slowness in implementing the 1971 settlement. The bill is only a starting point, and we will work to refine and improve it. Nonetheless, in my opinion, its basic approach -- extension of stock inalienability and tax protection, making existing land to Anchorage for undeveloped Native land beyond 1991 less costly -- is sound.

Some individuals believe this bill is linked to Native sovereignty. It is not.

ANCSA was, and is, a land settlement. It did not terminate the special relationship between Alaska Natives and the federal government or resolve the question of what governmental status, if any, various Native groups might have.

There is not one reference to sovereignty in ANCSA or the 1971 conference report. The Act's Declaration of Settlement is very clear. It extinguishes aboriginal claims of land title and aboriginal hunting and fishing rights -- nothing more and nothing less.

The Alaska Congressional Delegation warned that any effort to use these amendments to ANCSA to achieve sovereignty would destroy the 1991 legislative process.

The 1991 bill does not undermine ANCSA's extinguishment of aboriginal land claims or hunting and fishing rights. It does not affect the legal status of the most important question in the sovereignty debate -- whether lands conveyed pursuant to ANCSA can be converted to Indian country.

We are working to refine the 1991 bill to further reassure those who are concerned about the impact of the bill on the sovereignty question. Again, it does not, and will not involve sovereignty issues. If anyone here reads that into the language of this bill, then let's change the bill so all agree it does not deal with sovereignty.

Senator MURKOWSKI. Now, let's see if I can find out where we are here.

Is Renee Merry with us?

[No response.]

Senator MURKOWSKI. All right. Velma Schaffer is with us.

Thank you, Velma. Please proceed, Velma.

STATEMENT OF VELMA SCHAFFER

Ms. SCHAFFER. My name is Velma Schaffer, a stockholder of Doyon, Limited. I am here speaking on behalf of my family, who live in Yakatak, a small Indian village on the Arctic Circle, and also on behalf of myself.

My parents are old and don't have academic skills, so the modern technological means of communications is such that they are not here to voice their position on this important legislation.

To speak up at the hearings like this is an impossible task for them. I am also a grandmother of two small children who were born after December 18, 1971, and they, of course, are too young to defend their rights. I feel that these youngsters are entitled to be enrolled in the corporation, and benefit from something that's rightfully theirs, as they are descendants of my people.

There are those who would prefer to transfer their land or corporate stock, either by selling it or will it or have a non-native spouse inherit their shares of land. I feel that in order to protect our lands and people, we must give our village and regional corporations the right to decide on these extremely serious issues.

I feel that we have a right to defend our lands, animals and people. It is difficult for me to testify like this, but I feel I have to for my people and family, who are in the villages.

Therefore, I support the present version of S.B. 2065, which amends the Alaska Native Claims Settlement Act.

Thank you.

Senator MURKOWSKI. Thank you very much, Ms. Schaffer.

The next witness is Linda Dunton.

Please proceed, Ms. Dunton.

STATEMENT OF LINDA DUNTON

Ms. DUNTON. My name is Linda Dunton, and I am speaking as a shareholder of Doyon, Limited.

For the sake of the Native people of Alaska, and especially for my ancestors and future shareholders, I hope that my testimony is effective and will be a contribution to this most important issue.

Today I miss my grandfather, Edwin Simon. He always got up and spoke of what he believed in, and I wish he was here today.

In 1979, two weeks before his death, he spoke at a hearing on subsistence at the University of Alaska. The statement that he made which sticks with me today is: Our life is like a clock, we follow the seasons with the animals. In the summer we go fishing, in the fall we hunt moose, in the winter we trap, in the spring we hunt geese and ducks and start fishing again.

He was fighting then for the same things that we are still fighting for today.

With these amendments, we are fighting for the protection of our land.

First, I should explain what I understand. The formation of village corporation and Native people owing stocks in corporations is very hard for a Native to understand. Most Native people don't like the idea of owning stocks in corporations, because they don't understand them.

The feel threatened by knowing that one day they can lose their land by owning stock in a corporation. And this is the reason that they will sell their stocks in 1991.

This idea of owning corporations has brought about many divisions in our communities. We are divided because some people are involved in the regional corporations and in the village corporations. And then there is the children born after 1971. And because there are elders who are not going to receive any benefits from the corporations before they die.

All these situations should tell you that it is now time to place these decisions in the hands of the people who have to live by these laws.

Since the passage of the Statehood Act, we, the Native people of Alaska, have been abiding by rules and regulations set up by people outside of our communities.

It is time now to listen to us and to incorporate our feelings and our lifestyles into the legislation which will affect our lives.

I support the legislation in S.B. 2065, which is before you. This legislation will give us a chance to control our lives.

The passage of this bill would give the corporations the options to protect our lands from people who might take over the corporations.

The Native people are not the only ones preparing for 1991. There are people everywhere waiting and planning takeovers. They will attend most of the open meetings to watch what we are planning so they can figure out ways to get around our plans, or make their oppositions known, as they are doing here today.

In 1991, there will be over 200 village corporations up for grabs. The effect on the state's economy will be drastic. I wish that permanent residents of the State of Alaska would all join together in this effort to preserve Alaska. But what they don't know now is that they, too, will lose control of this beautiful land that we enjoy.

Most of the people who have moved to Alaska are here to enjoy the solitude. The solitude will be threatened, and our fish and wildlife will also be threatened.

There are those who say the Native people don't know how to manage their lands. Our people have been using this land for centuries, and we have done a very good job or preserving the land. It is only since the discovery of the oil in Alaska that we began having problems, which are a result of the impact that the pipeline had on us.

The most destructive was the passage of ANCSA, the forming of the parks and refuges, the divisions of the people and the negative effect construction of the pipeline had on the animals.

In 1985, a few caribou finally returned to the center of Alakakat since the construction of the pipeline began.

For centuries we have enjoyed living off the land without any outside influences. For the last 20 years, we have been fighting to protect our lifestyle and our lands. We have had to learn how to run those corporations, which are foreign to our way of life. We are still struggling through emotions of holding offices and playing in the politics of Native leaderships.

Senator MURKOWSKI. I wonder if you would conclude.

Ms. DUNTON. Yes. I am almost done.

We have not reached the point yet where we can compete with the rest of the economical world.

For all these reasons, I ask you to please consider our testimony seriously when you make your decision.

Thank you.

Senator MURKOWSKI. Jane Cosgrove, please proceed.

STATEMENT OF JANE COSGROVE

Ms. COSGROVE. Thank you, Mr. Chairman.

My name is Jane Cosgrove, from Baan-O-Yeel Kon, Rampart Village Corp.

I serve on the Village Corporation as a board member. I'm in favor of Senate Bill 2065, as presented to the United States Senate Committee today.

My immediate concerns are of the children born after December 18, 1971, and for people who, for a number of reasons, were unable to enroll timely.

I'm in favor of stock restrictions, further protection of our future. I'm also in favor of Section 9, authorizing conveyance of subsurface estate inland from a regional corporation to a village entity, if that is the desire of both parties involved.

I'm afraid if we do not protect our assets ourselves that our future children may never realize the land and lifestyles that we have come to enjoy.

For my children's sake, who are not enrolled, I hope we can pass Senate Bill 2065 quickly and fairly.

For someone that was born and raised and lived all my life in Alaska, I hate to see the countryside change drastically from what it has been all my life.

I feel like Anchorage and Fairbanks have changed so much since I was little, that I would hate to see it change any more.

Thank you, Mr. Chairman.

Senator MURKOWSKI. Thank you very much, Ms. Cosgrove.

Of course, change is one of those things that is inevitable. I might just ask the panel, since there was a common theme concerning children born after 1971, if you feel—anyone can answer this—if you feel that the concept of individually diluting stock ownership will be the appropriate answer for those born after 1971. This would mean those in your corporation voting their existing stock to be divisible under some form that would take care of the number of chidren coming along. Of course, the more children that came along the more your stock would be diluted. Because there's no provision in the legislation for any more land or any more money. And I don't think there's any objection, generally, to proceeding with some formula for taking care of those born after 1971, but it would require that kind of a personal sacrifice from people who do not have children within your corporation that would have to be willing to do this.

Ms. COSGROVE. That's been discussed for many years in our corporations, and everybody is—the way our culture is, you know, all the people are one, and we're all just together. And I guess what we want is, we don't want to own just a little piece of land, we all want to own a place to live, that's what we want. And the monetary value is not a big thing to us.

Senator MURKOWSKI. So what you're saying is that you see no difficulty in the sharehlders of your region being willing to give up some of their interests for the benefit of those born after.

Ms. COSGROVE. No, there's no——

Senator MURKOWSKI. Okay. Well, I think that it's important that at an appropriate time, your regional corporation address this in a formal session. That is what is going to have to be done for that to happen.

I would also like to make one other observation, although again I was not in Congress, nor active in the formation of the Land Claims legislation. I think it's fair to say that you—I'm speaking of Alaska's Native community—had some very outstanding Native leaders who worked very, very hard for that legislation. And like any legislation in Washington, DC, it's a compromise. And even non-Native legislation is a compromise.

We're approaching a tax bill that we may or may not get, and it will be a compromise.

So while it's easy to point out the deficiencies in the legislation that affects Alaska's corporations, both regional and village, the intentions, I am sure, were good and honorable and in the best interest of what the people felt was the interests of Alaska's native community. I'm talking about the Native leaders themselves. Because the other alternative would have been for you to have all the things you're talking about now, but it would have meant a reservation status as opposed to a corporation status, because I believe, if my menory serves me correct, that those were the only two alternatives. And the Alaska Native community was not satisfied with what they saw the rest of America's Native community addressing, and that was the reservation concept. So I would just point that out in reference, as we try and develop something better than either of those.

Ms. COSGROVE. I guess that's what they're trying to do today, is trying to make sure that our voice is heard this time around.

Senator MURKOWSKI. I assure you it's heard.

Thank you. It was heard in 1980, too, but whether there's a different message now is the question.

Our next panel will be Panel 22: Lula James, Kathy Nunan, Eliza Pitka, Ruth Cruikshank, Mike Smith and Maureen Walsh.

You may identify yourself and proceed with your testimony.

STATEMENT OF LULA JAMES

Ms. JAMES. Thank you, Mr. Chairman.

My name is Lula James, and I am a shareholder in Evansville, Incorporated, from Evansville, Alaska.

And I am testifying in favor of this Senate Bill 2065.

I believe this bill did not come out of thin air. Native leaders have been working on this for the last few years. And we Natives should be allowed to decide our own future.

I would like to speak on these issues: the stock, land protection, and children born after 1971.

We should be allowed to continue the restrictions on the stocks, so we won't lose our corporations.

I'm in favor of the land protection. I'm also in favor of giving some compensation to children born after 1971.

Senator MURKOWSKI. Thank you very much. We appreciate your testimony. And I think you have certainly covered the highlights of the subject matter before us. I would wish you a good day.

We're down to Panel 23: Lucille Taylor, Steven Renz, Doug Buchanan, Bill Walsh.

Are there any others in the audience who might wish to testify that have not had an opportunity to?

Mr. BUCHANAN. I think you have overlooked the Alaska Alpine Club, which was listed on Panel 23.

Senator MURKOWSKI. Well, I didn't overlook any organization. We are calling individual names, and that has been the tenure of the witnesses that have testified, we have called them by name. So I don't think that there's any exception.

We have had witnesses that have spoken on behalf of organizations, but they have been identified by name. So do you represent an organization?

Mr. BUCHANAN. I'm Doug Buchanan and will represent the Alaska Alpine Club in addition to my own personal statements representating myself.

Senator MURKOWSKI. That's quite appropriate.

Let me, for the record, make sure that we have accommodated everyone who is here.

The gentleman in the back that hasn't been heard who would like to testify, if you would please sign in over here.

Is there anyone else in the audience? Because I do want to make sure we're fair and accommodate each person.

[No response.]

Senator MURKOWSKI. All right. I would assume that this would be our last group of witnesses.

I would start, first of all, with Lucille Taylor.

Oh, Lucille Taylor is not here. Our next person is Steven Renz.

[No response.]

Senator MURKOWSKI. He's not here.

So it moves down to Doug Buchanan. Please proceed.

STATEMENT OF DOUG BUCHANAN

Mr. BUCHANAN. My name is Doug Buchanan. I live at 3641 Sandvik, Fairbanks. I'm representing myself. I'm a mountaineer.

We were told that the Alaska Lands Act was designed to only protect the delicate environment of certain critical ecosystems in Alaska. We were lied to by the U.S. Government.

The Alaska Native Land Claims Settlement Act, the Alaska Lands Act and the 1991 amendments are related, and demonstrate the depths to which the U.S. Government has slithered.

In the Alaska Lands Act, the Native corporations gained the exclusive first right to Federal concession permits on Federal lands in Alaska. These are very lucrative permits.

The law grants one race, not even using the euphemism of rural residents, but one race under the name of Native Corporations, the first right to these permits.

The law is indisputably racist. Senator Stevens, who achieved that inclusion for the Native Corporations and the Native Corporation lawyers knew that those of us who were adversely affected cannot afford to sue the Federal Government to regain our rights in a constitutional case.

Mr. Spud Williams, a Native corporation spokesman, has arrogantly claimed credit for writing that section of the law. He has stated, and I quote, "That kicks in when we want to make money off a bunch of Greenies running around".

Besides the concept of racial equality, this section of the law negates the concept of U.S. private enterprise, free market and fair competition.

It doesn't remotely relate to protecting the environment. You can't even use the excuse of protecting some favored culture. No Alaska Native has ever acted as a professional guide for mountaineering on Alaska's glacier-covered mountains, which is now being put under concession permit systems.

But Native corporations now own this real or private enterprise. Those wanting in will have to pay off a Native corporation official to get a permit under a Native corporation name.

I would remind you of another Alaska Lands Act scam of the Native corporations. Mountaineering is the only activity in Alaska, and then for only two glaciers in the whole state, that has been declared compatible with—has been declared by the Federal Government as compatible with Native corporation subsistence rights.

And when I publicly embarrassed a Federal official into making that compatibility declaration, a Native corporation spokesman used very strong language to immediately inform him that he, a National Park superintendent, did not have the authority to make such a declaration.

The Native corporations won't tolerate even mountaineering on glaciers to threaten one of the building blocks of their racist intents for Alaska, which they are achieving piecemeal through laws such as the 1991 amendments.

No other Federal official has been willing to declare any outdoor recreation activity, such as hiking, camping or canoing as compatible with Native corporation subsistence rights.

The subsistence scam achieved in Federal law can be used by the Native corporations, white lawyers, at their whim to extract permit fees for any recreational activity on public land in Alaska.

U.S. Congressmen are, again, not being honest with the citizenry about what is behind the public laws they are ramming through for the exclusive benefit of rich clients.

That concludes my personal statements.

Senator MURKOWSKI. Thank you. Do you have another statement?

Mr. BUCHANAN. For the Alaska Alpine Club, if you wish to take their statement now.

Senator MURKOWSKI. I will take it the next time around.

So we will next call on Mr. Bill Walsh.

Would you identify yourself, Mr. Walsh.

STATEMENT OF WILLIAM WALSH

Mr. WALSH. My name is William Walsh. I am speaking on behalf of my inherent interest in the tribal, the region, this part of the world here.

Senator MURKOWSKI. You are representing what?

Mr. WALSH. Myself. My inherent tribal interests.

Senator MURKOWSKI. And you're associated with what village?

Mr. WALSH. The Native Village of Tanana, the federally-recognized sovereignty tribal governing body.

I am speaking against this amendment, due to the fact that the Alaska National Interest Lands Conservation Act already was legislation enough for these purposes. Section 1401 of ANILCA states that the Congress formally recognizes the rights of the Natives to address the stock issue of whether or not to have stock, and the corporate issue, whether or not to have corporations, and the land and stock transfer issue, whether or not to just do away with State ownership of our property and revert back by transferring our stock and properties to the tribal councils.

This is sufficient. In Tanana, I believe, with the amount of work that's been going down there, in this instance, I believe that the people will soon come to see that we don't need stock ownership, we don't need classes of stock. They just alienate our children.

So we can do what we have always done and own our land in our own tribal organization. I feel that sooner or later that will happen.

What I would like to address here is the national security. To allow alienation of sovereignty in North America is an extreme to which I, as a white man, being a half-breed—and I'm speaking of American sovereignty here—and I as a Native, being a member of the tribe and having this inherent sovereignty already recognized, I am not going to condone this.

We cannot allow multinationals, we cannot allow British Petroleum, the British Government, the Japanese interest into our military pipeline, into our oil companies, and to filter out hundreds of billions of our economic wealth, and then to leave not only our Natives here in destitution, but the non-Natives.

And this Land Claims Act and the Statehood Act was a direct issue of seditiously liable individuals and corporations working throughout the wealth of the international monetary fund and the trilateralists, the bank, to subjugate not only indigenous peoples around the world but also the American citizen.

So it is in the interest of international security that I have spoken here. It's in the interest of national security that I have conducted business without a sovereign tribal governing body, which the United States Government is required to uphold.

It will be through the Tribal Tax Status Act that we will be able to reduce the federal deficits and to remain in control of the mineral and renewable wealth here in Alaska without having to give it away to the British, the Russians, the Japanese in return for a trade deficit that is illegal to begin with, because it's owed to the Federal Reserves by the feds.

Senator **Murkowski**. Your time is up. I wonder if you would conclude your statement.

Mr. **Walsh**. Thank you, sir.

Senator **Murkowski**. Thank you very much, Mr. Walsh.

Mr. Mike Irwin.

STATEMENT OF MIKE IRWIN

Mr. **Irwin**. Thank you, Senator.

My name is Mike Irwin. I live here in Fairbanks. I grew up in Nenana, and I'm originally from the Evansville area.

I'm a shareholder in Doyon, Limited. I work for Doyon, Limited, and I'm an officer and director of my village corporation. But I'm here today just to offer some comments as an interested citizen and as a shareholder, interested shareholder.

I just wanted to comment on a few things, and perhaps try to clarify a couple of things, because throughout the day I have heard some questions asked, and I thought that maybe I would be able to offer some perspectives, at least one perspective.

There seems to be some confusion on the part of some of the people on the committee as to not being able to understand certain concepts that are contained within this.

Also, there's a recognition by Senator Wallop that there seems to be a lot of differences and differences of opinion among and within the Native communities, and this is more than true. I think that over the last 3½ years, we have all come to understand that ourselves, and that's why this bill is fashioned so that there are a range of options for individual corporations, recognizing those differences that we do have, the differences in our goals, our capabilities.

There seems to be a lot of consternation over the fact that—especially when one gentleman testified that he wanted to see stock go only to Natives. I realize that that's probably a real hard concept to fathom for some. I think to us, as Native people, it isn't

He also said that this stock belongs to the group, to the people themselves. And I think that at least among our shareholders living in the villages, a majority of them would agree to that, that that is exactly how they look at their stock.

As far as transferring assets to another entity. It seems to me that there was possible confusion there in that it would be either one or the other; we could keep the corporations or we could go over to, say, a membership corporation or to an IRA. And I think, again, the legislation is structured so that it doesn't have to be an either-or situation.

Perhaps I think what most of our villages, in fact, are looking for is some way to get those traditional use and subsistence lands out from the risk of the corporation and to keep their businesses and to try and marry the two separate concepts that we do have to live with.

Again, the dilution of shares. I think our people do understand that. I think they understand that if they give shares to children, that they will be giving something up of their own. That's not against Native tradition, that's not against our way of thinking.

I have three small children myself. I want them to have just as much a part of their ancestors heritage and lands as I do.

And as far as reservations or corporations, I don't think again that that has to be an either-or situation. Maybe in 1971 that's what it looked like, but I think that we have come a long way and we can understand that perhaps there's some other forms of organizations that we could look at and that it wouldn't have to be an either-or situation.

Taxation: It's not—it's not a new thing to ask for different types of taxing situations to meet the public good and public policy. Just ask our legislators down in Juneau last year when they were grappling with the taxation issue with regard to the oil producers.

Senator MURKOWSKI. I wonder if I could ask you to sum it up.

Mr. IRWIN. Okay. I just wanted to finish that one point. Thank you. That our legislative bodies do do special types of taxation for corporations in order to meet the overall public good. I just wanted to clean up those points. Thank you.

Senator MURKOWSKI. Thank you.

Our next witness will be Ruth Ridley.

STATEMENT OF RUTH RIDLEY, PRESIDENT, HONKOGING CORPORATION OF EAGLE VILLAGE

Ms. RIDLEY. I'm Ruth Ridley, President of Honkoging Corporation of Eagle Village. And I'm here testifying on behalf of the corporation in support of Senate Bill 2065.

I feel that when the Land Claims bill was written that it didn't get nothing to safeguard us against losing our land. And I feel very strongly about the restrictions of our stock, that we have the option of maintaining or lifting the restrictions, that it stay in Native hands. And I also feel that children born after 1971 should be included in the Land Claims bill.

And that we don't have any—we don't put any monetary value on our stocks or our land. There's nothing to say how much it means to us.

We have spent a lot of money to learn everything that we have learned to get this far. And if we knew everything we know now before the Land Claims bill was passed, we would't be sitting here asking for amendments to the bill.

Thank you.

Senator MURKOWSKI. Thank you very much.

Our next witness will be Mr. Walter McQuesten.

STATEMENT OF WALTER McQUESTEN

Mr. McQUESTEN. Thank you, sir. And thank you for your patience today.

You suggest that——

Senator **Murkowski**. Would you identify yourself and your association, please?

Mr. **McQuesten**. Yes. I am Walter McQuesten. I'm a Doyon shareholder, and I speak at large—I'm registered at large, I'm not registered to a village.

Senator **Murkowski**. Would you spell your name for the benefit of the clerk, please?

Mr. **McQuesten**. M-c-Q-u-e-s-t-e-n. And the address is on the paper I presented to the lady.

I would suggest that in your follow-up press releases that you solicit more comments in writing from the people who are interested in this issue. I think the Committee has done its homework as best as possible. I think that ANCSA was a pretty far-reaching project, and that the amendment is even trying to settle some of these issues that are very serious.

I will be submitting my papers in writing, because I think that written testimony is easier to digest. However, I would suggest referring, as I can speak to you as a body, only two cases have come through the Supreme Court that are, to my mind, critical here, in separation between the Federal Government, the sovereignty of the tribal status and the states in which they reside.

The first, of course, is the Cherokee Nation versus Georgia of 183's, in which Chief Justice Marshall stated that the Indians, per se, would be domestic dependent nations.

And then the second one, the second case that I cite is Morgan versus the Colorado Indian Tribes. It was in our lifetime, just a few years ago. In which the Indian tribes were held free from civil courts for damages from parties and the State.

I will put this in writing and I will send my reasons. But mainly, that I think there should be a dynamism between the tribes—between the Indians and the state and the federal government. And if a pure State corporation is completed, I think we're in danger of continuation.

ANCSA was designed to separate and Natives from the land. It's been pretty successful so far, as it's going to be more successful unless there's some strong actions taken in some format.

But thank you for doing the homework and thank you for allowing us to present our feelings.

Senator **Murkowski**. Thank you very much. And the record will remain open for 30 days, at which time you may, of course, submit further material for the record.

We have two remaining witnesses, both of whom have testified previously, and I am going to accommodate them at this time.

I assume again that there are no other witnesses up, because this is the last time I will solicit for further witnesses.

That being the case, Mr. Miller.

STATEMENT OF VERNON F. MILLER

Mr. **Miller**. Thank you, Senator.

My name is Vernon F. Miller. I apologize for the previous outbreak of emotions. I think after 15 years of——

Senator **Murkowski**. No apology is necessary. Please proceed.

Mr. **Miller**. I think that after 15 years of fighting I became overwhelmed.

The history of my people are nomadic. We're Eskimos that lived in the Brooks Range. As such, the Nuninutes got its name from Caribou followers.

And I agree, as almost every Native here testifying today, with Senate Bill 2065, with the clause that I mentioned before that it be Indian legislation.

Even though I have been the sole supporters of Wiseman, and the President of Wiseman for the last 15 years, and have yet to become part of the Act, I understand the problems of those that have gotton their lands or have gotten some assurance that they will get their lands.

I'll conclude by requesting that an inquiry be made into the cause of Wiseman not being a part of Section 7 after we signed up as a village, and would hope that the entire committee deliberate on what I conclude as a reason that we were not subsequently included as a group; that we were the only Native entity geographically located within the pipeline corridor.

Thank you.

Senator **Murkowski**. Thank you very much, Mr. Miller. I assure you the committee will initiate an inquiry to the BIA and obtain an explanation as to why they saw fit to deny the application for the inclusion of Wiseman.

Our last gentleman is Mr. Buchanan, who will be testifying on behalf of the Alpine Club.

Is that correct, sir?

Mr. **Buchanan**. Correct.

Senator **Murkowski**. You may proceed.

STATEMENT OF DOUG BUCHANAN, EXECUTIVE DIRECTOR, ALASKAN ALPINE CLUB

Mr. **Buchanan**. As executive director, I'm representing the Alaskan Alpine Club, headquartered in Fairbanks.

We are one of the two U.S. member organizations of the International Union of Alpinist Associations which represents 44 nations.

Members to the Alaskan Alpine Club would like the right to be mountaineering guides on federal public mountains in Alaska. The Federal Government has already proven that it will limit concessions permits to participate in this economic opportunity for unaccountable reasons, and will outlaw Alaskan mountaineering guides in Alaska.

Most members of the Alaskan Alpine Club are not members of the Native corporations cannot buy Native corporation stocks to become a part of them.

Native corporations own first-right to Federal concession permits. The 1991 amendments compound the injury by functionally precluding the chance to ever join the Native corporations. Under Federal law, we were born into the inferior race. Which error will you admit to? Will you go back to the Alaska Lands Act and change your exclusion of whites from federal concessions permits, which are now controlled by Native-corporation whim, or will you prevent the Native corporations from excluding whites from their public corporations?

It will become imperative that one or both actions occur. The racist sections of law that you are foisting off on Alaska are compounding themselves to make a sham of the U.S. system of government. You are copying Southern African apartheld piecemeal. The result of these two wrongs is greater than their sum, and they are only small parts of a much larger racial confrontation being created in Alaska by the Washington, DC, government and Alaska Native corporation lawyers—often white lawyers.

The issue of mountaineering guide concessions permits has numerous tentacies. One of the Seattle-based white lawyers for the Native corporations, who worked very closely with Senator Stevens on this issue and the Alaska Lands Act, is now hanging up on reporters trying to investigate the Federal concessions permit scam in the State of Washington.

Federal concessions permits are big business. They are functionally void of accountability or checks and balances. Their use fits the literal and legal definition of racketeering. They represent one of the several organized crime aspects of Federal Government.

The direct, knowing involvement of certain Senators and the Native corporations in the lucrative Federal concession permit scam reveals much of the nature of the 1991 amendments.

This Federal Governement racketeering cannot stay hidden. You cannot fool all the people all the time. Because of the Native corporation benefits, Alaska's dishonest congressional delegation has ignored all the Alaskan Alpine Club pleas for relief from this onerous imposition, even though Alaskan mountaineering guides have been illegally outlawed in Alaska by the Park Service.

But a recent fluke of events may have caused a congressman from another State to realize the magnitude of the government crime involved in these permits. There is now a real chance that this scam may unfold and it may go deeply.

Involved are Senator Stevens, the Native corporations and the 1991 amendments. You are displaying stupidity to criticize South African apartheid while ramming through the 1991 amendments in the U.S. You cannot avoid getting caught, perhaps by some little peripheral-sounding conflict like concession permits.

International Alpinists, some of whom you have unbelievably arrested on the same excuse in Alaska, are now keenly watching your actions.

That concludes these statements. Thank you.

Senator **Murkowski**. Thank you, Mr. Buchanan.

I think you would all agree, we have had interesting and diversified testimony. In deference to the last witness, whom I would appreciate staying until I finish my statement; I see he has seen fit to do so.

For the record, we would suggest that if he has any claim to any improprieties involving the delegation, since he specifically made a reference to the dishonest Alaska congressional delegation, I would urge him to go immediately to the U.S. Attorney with such information, without any hesitancy, and divulge his sources of information and allegations to the appropriate authorities. And I intend that to be a part of the record.

This basically concludes 83 witnesses, which I think may be a record. I don't know if it's a record for you, Tony, but I think the last time I spent this much time in one hearing was out in Pierre, South Dakota, and it was in a gymnasium, and there were about 200 people, 100 on each side of the gymnasium and 100 on each side of the issue. It was very, very hot. And I think we started at 8 in the morning and went until 8:30 that night.

I want to again thank those of you who testified. I think that we have generally had a record that followed perhaps more intensely that of previous records from hearings in Hoonah, Kotzebue, and Barrow. We have had perhaps a little more expansion of the issues, as the issues became better known throughout the Native community and throughout the Alaska non-Native community, as evidenced by the responsibility of the media to extend the communication process. And I commend them for doing that.

I think it appropriate that I can generalize in the area of the continued concern over the potential loss of the land, which, theoretically, could come about after 1991, when the shares could be transferred openly under current law, and the concern over the reality that the land was not transferred in the manner in which probably the originators of the legislation had hoped. They had hoped it would be transferred more timely. Yes, we see situations where about, what, four-fifths of the land has been transferred now, but not all of it.

I think from the standpoint of balance of testimony, there's little testimony from those objecting to the aspects of the 1991 issue alone, standing on its own. Basically it is the right of the Alaska Native community, who are the sole recipients of the shares of stock, to want to extend the non-transferability of that stock for an extended period of time beyond 1991 or until the regional corporations address the issue themselves internally us to what they want to do with the stock.

I think the hearing has brought out, if you will, a bit of the dilemma associated with what happens when you restrict stock. It basically loses a good deal of its value because it can't do the things that corporate stock is designed to do; you can't borrow on it; you can't put it up as collateral; you can't go into business with it, you can't do a lot of things. But again, this is pretty much the interest of Alaska's Native community, because they are the only recipients of this stock.

The taxation issue I think has been explored. I'm awfully sorry that we did not have representation from the governmental bodies that tax. And I would hope that perhaps in Anchorage we will have representation by the borough, whether it be the Borough of Fairbanks, the Borough of Anchorage, or the Borough of Juneau, all of which have communicated to us their concern about the issue of taxation of Native lands within the borough. They clearly are not lands designed for subsistence, but for the enjoyment of the benefits of land within the borough.

And should there be two structures internally on taxation; one, addressing the subsistence lands that couldn't generate any revenue and are designed for subsistence, or one for those within the borough that do have value. Yet, again, recognizing the reality that if the corporation were forced to pay taxes on land within the borough, they probably would have to sell the land to meet the taxes or some such thing.

And I just point that out to you to share with you the general pros and cons about the taxation issue. Those that suggest that the Native community ought to pay its own way on land that it has, and the testimony we have had, which seemed to pretty much generate unanimity in the sense that if it constitutes revenue-producing land it should be taxable, or they're willing to pay their fair share for land that is producing revenue.

The issue again of the children born after 1971. I think there's general concensus without a great deal of concern beyond Alaska's internal Native community about the merits of that. That means that the stock that's out there can be shared with those born after 1971, but it will mean some kind of a formula of diluting the ownership of that stock.

And my background as a banker tells me that you're going to have to spend a lot of time on that formula, because you're asking each person, those that don't have children, to basically give you an interest that has a value.

I'm not suggesting for a moment that Alaska's Native community isn't motivated to the tribal-benefit concept, but still again, you're mixing a unique combination of pure capitalism, as it's represented by the individual stock-ownership for the benefit of all participants, which is in the tribal benefit.

But I don't think there is a basic problem from the standpoint of the issue of sharing with those born after 1971, as long as the Native community can agree on it.

And, of course, the last point, and the one that I think has gotten most of the concern in the testimony today is what is meant by the transfer of other assets to other entities.

And I think it's fair to say that the examination and the input that we have had on the Committee leads one to the conclusion that there is no unanimity on the question. There are different interpretations. And as we continue the hearing process, that may be one area that will necessitate clarification.

So with that wrap-up, I guess, I would again thank you for your participation.

We will have the hearing record open, as I stated, for 30 days. I would like to first thank Todd Pyles, who has been here all day conducting the record for the hearing.

How long after today before people can pick up the record?

Mr. PYLES. Ten working days.

Senator MURKOWSKI. It's our intention to provide anyone who wishes a copy of the record with it. Is it going to be thick, is it going to be free, Tony?

Mr. BEVINETTO. It's going to be free. And if they have signed up for it, Senator, why they will get it in the mail.

Senator MURKOWSKI. I would also like to thank Faith Haywood, who has been with us all day, and is on the Energy Committee professional staff, and my colleagues on my right, Marcia Jones and John Moseman.

I think we have compiled a worthwhile record and one that will stand the scrutiny and the appropriate scrutiny of those who want to spend about seven hours on it.

And I want to thank you, Tony. Of course, Tony is probably going to be leaving us on the next plane, getting ready for the Anchorage hearing.

So I think that's enough for today. Let's go out and enjoy the sunshine.

The hearing is concluded, but the record will remain open for 30 days.

We will begin the Anchorage hearing on Tuesday at 9 a.m. Senator Stevens and I will be conducting that hearing. And we will again accommodate the witnesses that are down there at that time.

And we also are scheduled for a hearing in Washington. And we probably will have one more hearing in Alaska to accommodate perhaps the westward area that we have not been able to cover.

Thank you very much. The hearing is concluded.

[Whereupon, the hearing adjourned, subject to the call of the Chair.]

TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

TUESDAY, MAY 27, 1986

U.S. SENATE, SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES,

Anchorage, AK.

The subcommittee met, pursuant to notice, in Anchorage, AK, Hon. Frank H. Murkowski presiding.

Present: Senators Murkowski and Stevens.

Also present: Tony Bevinetto, professional staff member.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Good morning. It gives me a great deal of pleasure to call to order the Senate Energy and Natural Resources Committee's Subcommittee on Public Lands, Reserved Water and Resource Conservation to hear testimony this morning on the 1991 Amendment to the Alaska Native Claims Settlement Act.

I'm very pleased to see that so many of you are in attendance this morning. As you know, earlier this year, at the request of the Alaska Federation of Natives, the congressional delegation introduced legislation containing amendments to the Alaska Native Claims Settlement Act. Since that time, hearings have been held in Hoonah, Barrow, Kotzebue, Washington, DC, and Saturday in Fairbanks, where we had 126 witnesses lined up, and 86 actually testified.

The purpose of this hearing is to continue that information-gathering process. The testimony given at these hearings, plus the letters and telephone calls of many Alaskans has shown that there exists a wide range of opinions on several provisions on the 1991 bill. Many of the provisions of the bill provide options to Native corporations for addressing stock ownership and transfer questions. Dissenter's rights, continuation of stock restrictions, and issuing stock to new Natives are issues that fall into this category. Responsibility for policy decisions on these issues rests within the Alaskan Native community.

On the other hand, there are certain sections of the bill which have a broader impact, they affect all Alaskans. Extending unlimited tax exempt status to undeveloped lands and ensuring that the bill does not foster the establishment of sovereignty are two such issues. It is imperative that we have the views of a wide spectrum of Alaskans on these matters in order to assure that the legislation embodies sound public policy for the entire State.

I have stated many times that the language of the 1991 Amendments is not cast in stone. Changes to the bill will be made to reflect the views of all Alaskans to benefit all Alaskans as we proceed with the development of this legislation. Those changes, however, must conform to the ground rules for this legislation. Those ground rules in general include: The purpose of the legislation is not to foster the establishment of sovereignty; there is to be no tax exemption for developed revenue-producing lands; and, the Federal and State governments will not provide any additional land or money to Native corporations for those born after 1971. This issue will have to be addressed under existing corporate stock dilution formula.

I am very pleased to introduce my distinguished colleague, the Senior Senator Ted Stevens. As you know, Senator Stevens was one of the principal authors of the Alaska Native Claims Settlement Act. The insight and depth of knowledge which he brings to the 1991 amendments process have been and will continue to be invaluable as we work together to make this legislative proposal a reality.

Before we hear from the first witnesses, I think it is appropriate to return to the mechanics of the hearing briefly out of respect to all witnesses who wish to testify today, and I understand there are currently over 50 that have indicated that they intend to testify. I would ask all witnesses to summarize their written statements in their oral testimony. Your oral testimony will be limited to three minutes. This was the case in Fairbanks. The lights will remind you of the time; the green means "go," the yellow means "you have one minute remaining," and the red means "summarize the remainder of your statement". If you run overtime, I will ask that you summarize the remainder of your statement. I would like to also remind you that your complete written statment will be included in the hearing record as if read. Witnesses are asked to testify in panels and we have arranged that. The witness list is posted and shows the order of testimony. It's posted outside the courtroom. If you need a witness list, the staff will provide you with one. A printed hearing record will be sent upon request, just provide your name and address on the mailing lables on the table indicated.

Due to some funding cutbacks, copies of this record may be limited. Again, please hold on to your testimony until you are called to the witness table. Staff will collect them at that time. We look forward to hearing from you today. If you would like to provide addtional testimony, or if you know anyone who would and is not here today, written comments are welcome. You may send them to my office in Washington or any of our offices here in the State, and they will be entered into the record.

As you know, this legislation is important to all Alaskans and we look forward to working with you during the course of the legislative process.

I would like to make sure that some of the people are introduced. Faith Haywood is from the Energy Committee and is here with us for the hearings. Tony Bevinetto is also with the Energy Committee. Gregg Chapados is with Senator Stevens' staff. Marcia Jones and John Roseman are of my staff.

In order to correct any impressions regarding this legislation as a consequence of a newspaper article, I would like to correct the quote that the legislation is, "dead," for this session. Senator Wallop, who was chairing the subcommittee hearing in Fairbanks and is the subcommittee chairman for the subcommittee, has indicated that he has a full agenda of subcommittee hearings under his subcommittee for the remainder of the 99th Congress. Given the complexity of this legislation, it will be necessary to have meetings in Washington, DC, at both subcommittee and full committee levels. So the question is how much time is remaining in this session. And that at this time is difficult to determine.

My intention is to move this bill as expeditiously as possible in the Senate, while recognizing that the Senate will be dealing with highly controversial bills this summer, tax reform, appropriation bills and so forth, and while insuring that the Alaska hearings are complete, meaning we probably will have another hearing in Alaska, in western Alaska, late this summer.

So as I stated in my quote in the press, as to the disposition of this legislation in this Congress, it will be nip and tuck. I think that is an accurate portrayal.

I would also like to introduce our court reporter, Marcia Mayr. I think I have taken care of all of the announcements.

Ted, I look forward to your opening statement. Welcome to the second hearing of this group on 1991.

Senator STEVENS. Thank you, Mr. Chairman. In keeping with your comments, I would ask you to print my opening statement in full.

Senator MURKOWSKI. It will be entered into the record.

STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator STEVENS. The Alaska Native Lands Claims Settlement Act broke new ground in American Indian law. Those of us who worked on the Act—and there remain only two of us who signed the Conference Report left in the Conference, Congressman Udall and me, we had high hopes for the 1971 Settlement.

The bill before the committee today focuses on another side of the ANCSA story. It's designed to address problems created by the Federal Government's slowness in implementing the 1971 legislation.

The bill is only a starting point, and I want to work with you to refine and improve it. Some individuals believe this bill is linked to Native sovereignty, and I think that we should state at the very outset that it is not. ANCSA was and is a land settlement. It did not terminate the special relationship between Alaska Natives from the Federal Government or resolve any questions concerning the governmental status, if any, of various Native groups.

There's not one reference to sovereignty in ANCSA or in the 1971 Conference Report. The Act's declaration of settlement is very clear. It extinguishes aboriginal claims of land title and aboriginal hunting and fishing rights, and nothing more or less.

As the Alaska Congressional delegation, we have warned that any effort to use these amendments to ANCSA to achieve the solution to the sovereignty issues would destroy the 1991 legislative process.

This bill does not undermine ANCSA's extinguishment of aboriginal land claims or hunting and fishing rights; it does not affect the legal status of the most important question, really, in the sovereignty debate, and that is whether lands conveyed pursuant to ANCSA could be converted to Indian country.

Now, we want to work to refine the 1991 bill to further reassure those who are concerned about the impact of the bill on the sovereignty question. And again, it does not and will not involve the sovereignty issue. If anyone here reads sovereignty into the language of this bill, then it's my position that we should change the bill so that all agree that it does not deal with sovereignty.

The fear of 1991 in rural Alaska has exacerbated the controversy over sovereignty, and the quicker that fear is eliminated the better the chances will be for a rational, non-devisive answer to the sovereignty question.

Now, I believe that Congress could resolve the sovereignty issue, but I oppose the exercise of that power unless the State of Alaska developes an official position on how that question should be answered. Without a State position, there is no incentive for Congress to deal with the compex issue of sovereignty, which effects only one State. After all, any Federal action will reduce the sovereignty that was granted to the State of Alaska in Statehood.

To me the better solution is to eliminate the fears of the Native residents created by 1991 through Federal action and meet the needs of local self-government through the State Act.

I'm please to be here with you, Mr. Chairman. I will have to leave in just a short while, but I do intend to come back and, with your permission, I will Chair the session of the hearing this afternoon.

[The prepared statement of Senator Stevens follows:]

May 24, 1986

Good morning, my name is Donald Evans. I live in Fairbanks, Alaska but was raised in Rampart, Alaska. I am a construction worker. I presently serve on the Board of Directors of Baan o yeel kon Corporation.

I urge you to support and vote yes for Senate Bill 2065 in order to amend the Alaska Native Claims Settlement Act.

Some of my concerns are 1) for the protection of our ANCSA lands, 2) our stock to stay in the ownership of Alaska Natives and 3) for our children born after December 18, 1971 to be included. I have two sons and they presently cannot enroll as shareholders and with my involvement, they hear me speak on ANCSA, and before youknow it they will be questioning me about their ties to our Corporation and lands.

I want to teach my sons about their involvement in their Corporations and not tell them what they could have had. Again, I want to express how important it is for us to hold onto our stock and land.

Thank you for holding this hearing in Fairbanks, Alaska.

The fear of 1991 in rural Alaska has exacerbated the controversy over sovereignty. The quicker that fear is eliminated, the better the chances will be for a rational, non-divisive,answers to the sovereignty question.

Sovereignty is a fundamentally important issue for Alaska. We haven't really begun to come to grips with it. Instead of identifying the legitimate needs of local self-government of rural Native residents and all other Alaskans and then investigating how those needs can be met within the framework of state law, advocates on both sides of the issue create a smokescreen which only chokes off rational debate.

Congress could resolve the sovereignty question. I oppose the exercise of that power, however, unless the State of Alaska develops an official position on how the question should be answered . Without a state position, there is no incentive for Congress to deal with this complex issue of sovereignty. After all, any federal action will reduce the sovereignty granted to the State of Alaska.

The better solution is to eliminate the fears of native residents created by 1991 through federal action and enact the needs of local, self government through state action.

Absent legislative action, sovereignty issues will be decided, piecemeal, in the courts, after lengthy, costly, and disruptive litigation. All Alaskans should realize that allowing this issue to be decided judicially is very likely to produce major conflicts within our state.

This bill, however, does not deal with sovereignty, and will not, so long as I have anything to do with it.

Mr. Chairman, that concludes my remarks.

Senator **Murkowski**. Thank you very much, Senator Stevens.

We will now proceed with Panel One: Mayor Tony Knowles, the Mayor of the Municipality of Anchorage. And also with him on the panel is Senator Sturgulewski.

In order to expedite the process here, I'm going to have people coming up so they will be ready to go on the next panel, so I'm going to call Panel Two as well: Steven Britt, Legislative Counsel for the Department of the Interior. You may take a seat at one of the microphones.

Mayor, it's good to have you here this morning. We look forward to your statement. We are also pleased that you have a nice sunny day for us.

STATEMENT OF TONY KNOWLES, MAYOR, BOROUGH OF ANCHORAGE

Mayor **Knowles**. Thank you, Senator Murkowski, Senator Stevens, ladies and gentlemen. My name is Tony Knowles. I'm the Mayor of Anchorage.

Thank you for providing me, along with other Alaskans, the opportunity to address the amendments in the Alaska Native Claims Settlement Act.

First, I would like to voice my support for the basic principles of the 1991 amendments. While ANCSA was a giant step forward in the way Congress dealt with Native Americans, it was, of course, not perfect.

The amendments proposed should provide Native corporations the ability to safely keep their lands in an underdeveloped state in order to maintain the traditional lifestyle of the shareholders of the land. But the amendments must also ensure that corporations which depart from that traditional way of life share the responsibilities of all other landholders within their communities.

A local property tax should be drafted to meet two goals: first, it should be fair to all citizens in sharing the burden of payments to the local government services; and, second, it should promote orderly community development.

The proposed amendments in ANCSA meet these two goals. However, there are two specific points that I would like to address. First, one of the sections of ANCSA which can benefit from clarification is Section 21(d). It is important to establish here, I think, a clear and equitable definition of developed land. There seems to be at this point no argument as to when it should be taxed, but I think it should be clarified as to what development is. By doing so I think we can avoid future litigation.

I submit that Native corporation lands should be deemed taxable upon approval of a final plat by the appropriate authority of the municipality in which the subject land is located.

The concept is simple. There is a specific action to make it. The Municipality of Anchorage currently begins the assessment and taxation process at this point, and to the best of my knowledge, there's no disagreement with that process at the current time.

The key to the 1991 Amendment is choice. Shareholders who choose traditional lifestyles should not lose their lands through taxation. But land which has been fully considered by the development process of a community represents another choice.

The platting process represents a significant investment of both the developer and the public. The land is prepared for sale and it is, through community action, materially increased in value. Upon approval of a final plat, all land should be subject to taxation.

Another area of concern is the amendments to Section 7(c). Again, a careful balance is essential. Management options are important. Protection of the land assets is desirable, but there can be no opportunities for end-runs by corporations which choose development and then wish to escape responsibility through transferee entities unreachable by even State and local jurisdictions. The exercise of eminent domain for identified public purposes may also be an issue here.

I don't have any specific legislation or specific language in this particular concern, but we would like to be able to work with you as the legislation is further discussed so that this possibility does not occur.

With that, I thank you for the opportunity of speaking with you, and I look forward to working with you as the companion House bill moves forward.

[The prepared statement of Mayor Knowles follows:]

TESTIMONY OF TONY KNOWLES, MAYOR OF ANCHORAGE, ALASKA

REGARDING S.2065 - MAY 27, 1986

SEN. MURKOWSKI, LADIES AND GENTLEMEN, GOOD MORNING. MY NAME IS TONY KNOWLES, AND I'M MAYOR OF ANCHORAGE. THANK YOU FOR PROVIDING ME, ALONG WITH MANY OTHER ALASKANS, THE OPPORTUNITY TO ADDRESS S.2065, AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANSCA). THE "1991" ISSUE WILL HAVE FAR-REACHING EFFECTS ON ALL ALASKANS. FIRST, I WANT TO VOICE MY SUPPORT FOR THE BASIC PRINCIPLES OF THE "1991" AMENDMENTS. WHILE ANSCA WAS A GIANT STEP FORWARD IN THE WAY CONGRESS DEALT WITH NATIVE AMERICANS, IT WAS NOT PERFECT. SOME OF THE FUNDAMENTAL ASSUMPTIONS CONCERNING LAND CONVEYANCES AND THE PERFORMANCE OF VILLAGE CORPORATIONS UPON WHICH CONGRESS BASED ITS DECISIONS HAVE NOT PROVED TRUE. NATIVE PEOPLE COULD LOSE THEIR STOCK - AND THEIR LAND - THROUGH SALES OR BY MEANS OF THE SAME SORT OF HOSTILE TAKEOVER WHICH HAS BECOME SUCH A PREVALENT AND PREDATORY PART OF THE AMERICAN BUSINESS SCENE. FUTURE GENERATIONS COULD LOSE THE HERITAGE THEIR FATHERS SOUGHT TO SETTLE AND SAVE. AT THE SAME TIME, THE AMENDMENTS MUST STRIKE A CAREFUL BALANCE. THE AMENDMENTS SHOULD PROVIDE NATIVE CORPORATIONS THE ABILITY TO SAFELY KEEP THEIR LANDS IN AN UNDEVELOPED STATE IN ORDER TO MAINTAIN THE TRADITIONAL LIFESTYLE OF THE SHAREHOLDERS, BUT THE AMENDMENTS MUST ALSO ENSURE THAT CORPORATIONS WHICH DEPART FROM THAT TRADITIONAL WAY OF LIFE SHARE THE RESPONSIBILITIES OF ALL OTHER LANDHOLDERS WITHIN THEIR COMMUNITIES.

ONE OF THE SECTIONS OF ANSCA WHICH CAN BENEFIT FROM CLARIFICATION IS SEC.21(d). IT IS IMPORTANT TO ESTABLISH A CLEAR, EQUITABLE

DEFINITION OF "DEVELOPED" LAND. BY SO DOING, WE CAN AVOID FUTURE LITIGATION. I SUBMIT THAT NATIVE CORPORATION LAND SHOULD BE DEEMED TAXABLE UPON APPROVAL OF A FINAL PLAT BY THE APPROPRIATE AUTHORITY OF THE MUNICIPALITY IN WHICH THE SUBJECT LAND IS LOCATED. THE CONCEPT IS SIMPLE, AND THERE IS A SPECIFIC ACTION TO MARK IT. THE MUNICIPALITY OF ANCHORAGE CURRENTLY BEGINS THE ASSESSMENT AND TAXATION PROCESS AT THIS POINT. THE KEY TO THE "1991" AMENDMENTS IS CHOICE. SHAREHOLDERS WHO CHOOSE TRADITIONAL LIFESTYLES SHOULD NOT LOSE THEIR LANDS THROUGH TAXATION. LAND WHICH HAS BEEN FULLY CONSIDERED BY THE DEVELOPMENT PROCESS OF A COMMUNITY REPRESENTS ANOTHER CHOICE. THE PLATTING PROCESS REPRESENTS A SIGNIFICANT INVESTMENT OF BOTH THE DEVELOPER AND THE PUBLIC. THE LAND IS PREPARED FOR SALE AND IT IS, THROUGH COMMUNITY ACTION, MATERIALLY INCREASED IN VALUE. UPON APPROVAL OF FINAL PLAT, ALL LAND SHOULD BE SUBJECT TO TAXATION.

ANOTHER AREA OF CONCERN IS THE AMENDMENTS TO SEC. 7(c). AGAIN, A CAREFUL BALANCE IS ESSENTIAL. MANAGEMENT OPTIONS ARE IMPORTANT. PROTECTION OF LAND ASSETS IS DESIRABLE, BUT THERE CAN BE NO OPPORTUNITIES FOR "END RUNS" BY CORPORATIONS WHICH CHOOSE DEVELOPMENT AND THEN WISH TO ESCAPE RESPONSIBILITY THROUGH "TRANSFEREE ENTITIES" UNREACHABLE BY EVEN STATE AND LOCAL JURISDICTIONS. THE EXERCISE OF EMINENT DOMAIN FOR IDENTIFIED PUBLIC PURPOSES MAY ALSO BE AN ISSUE HERE.

AGAIN, THANK YOU FOR OFFERING THE OPPORTUNITY TO SPEAK ON THIS VERY IMPORTANT LEGISLATION. I LOOK FORWARD TO WORKING WITH YOU AS S.2065 AND THE COMPANION HOUSE BILL MOVE FORWARD.

Senator **Murkowski**. Thank you very much, Mayor Knowles.

In the case of the Greater Anchorage Borough, you have land that was selected by village corporations within the borough and that land currently is not on your tax rolls. Is that correct?

Mayor **Knowles**. Yes, sir.

Senator **Murkowski**. Is that land, in your opinion, different land in the sense that it's for fish and game for the utilization of the Native people that reside there?

Mayor **Knowles**. Yes, Senator.

Senator **Murkowski**. So it's not commercial land?

Mayor **Knowles**. We do not consider it as such. The point at which we currently put land on the tax rolls is when the final plat has been approved. And any land that does not have that right now would be a large amount of land in North Anchorage currently owned by Eklutna that has not gone through—probably in excess of 30,000 acres, that has not been approved by a platting process. It is not taxed. Also Fire Island would also fall under that.

Senator **Murkowski**. The reason I'm asking this is that you have indicated the need for a definition of what development is, and I think that's very important. And if you have any suggested language for it, that would also be of assistance to the committee please let us know. But we do have in other boroughs in the State land within the borough that just is not on the tax rolls yet that has commercial development potential. And since the purpose of the justification of not having a land taxed was because it had no revenue-producing capabilities in the strict sense, it was therefore subsistence for the people, we have run into these two extremes. We have land outside, which truly has one specific purpose, and the justification for taxation is really not there because the land has no revenue-producing capability and if you did tax it, why, the corporation would probably be forced to sell it to raise enough revenue to meet the tax requirements. And then the land that's in the boroughs that receives borough services or is entitled to them, that land, of course, is in a different category. But the question of making any distribution is what I'm looking for here in the legislation.

Some will tell you, "Well, I pay taxes on my land in the borough and a village corporation should pay taxes on their lands in the borough." But if you force them to develop, then theoretically you push real estate on the market because they have to generate revenue. So I have been wondering from the standpoint of the municipality if you have any feeling as to this land within your borough or if you're just satisfied to leave it as it is now, which is you put it on the tax roll as soon as it's platted.

Mayor **Knowles**. Senator Murkowski, I agree with the direction that you're facing in terms of the dilemma. We would feel that final plat would properly segregate that land and it would be used for commercial purposes. To the best of my knowledge, before there's any land use or building permits allowed on a piece of property that it does have to be platted. And that would distinguish the land which would be used for noncommercial purposes as well as that for which would be used for it. That would be appropriate, I think, in any borough.

Senator **MURKOWSKI.** I have no further questions. Senator Stevens?

Senator **STEVENS.** Well, Mayor Knowles, do you feel this is unique for Anchorage or is this a common practice here in Alaska as far as the platting being the prerequisite for going to the tax roll?

Mayor **KNOWLES.** I think, Senator Stevens, that would be appropriate under current State law for any borough.

Senator **STEVENS.** Could you do us the service of going through your municipal league to see if they would endorse your position so that we could take this as being a statement of policy for the organized local government? Is that possible?

Mayor **KNOWLES.** I would be glad to attempt to do that, Senator Stevens.

Senator **STEVENS.** It would be quite a service if you could, because the issue is one that has been raised with us; it was raised when I was holding hearings in Southeastern. But a firm statewide policy has really not been developed. I think yours is a very rational one and that we should adopt it. But I would be very interested to know if the other organized political subdivisions would agree. And I think the league's got that capability, don't they, of coordinating such a thing?

Mayor **KNOWLES.** Yes, Senator, the Municipal League of Cities.

Senator **STEVENS.** Thank you very much. We appreciate your testimony and time.

Mayor **KNOWLES.** Thank you very much.

Senator **MURKOWSKI.** I might just comment, we have also had inquiries from the gold-belt land area which is encompassed by the Juneau-Douglas Borough. So it would be very helpful. Thank you very much, Mayor, we wish you a good day.

Our next witness is the Honorable Senator Arliss Sturgulewski. Arliss and I had an occasion last Tuesday for a rather joyous reflection on our first grandson, Gentle Ben.

Senator **STURGULEWSKI.** Gentle Ben was not that gentle.

Senator **MURKOWSKI.** This gentleman's name is Bernard Rowe Sturgulewski, but they're calling him Ben. That's easy to spell.

Senator **STURGULEWSKI.** We look forward to your testimony. We're limiting our witnesses to 3 minutes.

STATEMENT OF HON. ARLISS STURGULEWSKI, STATE SENATOR FROM ALASKA

Senator **STURGULEWSKI.** Thank you very much. Just by way of introduction, I am a State Senator. I'm currently Chair of Senate Resources and a candidate for governor. I'm speaking as an individual.

I mentioned the Senate Resources because we have done a lot with the impact that we have had from ANCSA lands, certain land subsistencies where we heard from a wide variety of Alaskans.

I want to thank you for the opportunity to testify. By holding these hearings you're certainly fulfilling one of the strongest concerns regarding this legislation, an opportunity for Alaskans to have a voice.

I understand that not everyone, of course, can speak here from the various committees, but that you will convey the information.

ANCSA together with ANILCA has had a profound effect on Alaska, certainly in the use of our land, the way we live together, our development as a city. Because of the importance of these Acts, I would urge extreme caution in making any changes to be sure that those changes don't have unintended results.

I realize that the corporate model adopted by the Claims Act frequently is ill-adapted to the reality of life in many of our Alaska Native communities. I further realize that some amendments to ANCSA may well be necessary.

I certainly support those portions of amendments that deal with alienation and conveyance of stock. I think those certainly fit in with the internal forces dramatically.

In particular, however, I do urge caution on 7(c). I realize that the language in 7(c) by itself is very neutral. The subsection does now, however, exist in a vacuum. There are substantial opinions both legal and popular that ANCSA itself was not neutral. These opinions held up settling of the Native claims. ANCSA really struck a bargain. Part of the intent of this bargain to settle claims without establishing any permanent racially-defined institution, right, privileges or obligations without creating a reservation system or lengthy wardship or trusteeship, that comes from the intent section.

There's substantial belief that passage of 7(c) will increase the legal standing for sovereignty. And, again, I'm reflecting a lot of information that has come forward. Since I know this is not your intention, I would strongly urge your consideration of deletion of that portion.

In addition, I would strongly urge to consider deletion or amendment of Sections (a) and (b) that deal with transfer of land, and proposed amendments to Section 21(d) that deal with the exemption from taxation of undeveloped land. I would, of course, be happy to have a question regarding the undeveloped land. We do have some wording in the Municipal Title 29 that deals with that.

Today you are going to be hearing many opinions on these amendments, including legal opinions. I urge you to listen to the voice of Alaskans as you deliberate with this legislation.

I would hope that you do not include amendments that could be construed as clouding the issue with the issue of Native sovereignty. That certainly was not your intent, but it's one that there's a wide perception that that's being done.

Before I became a Senator I had a history in local government, and Alaska's Constitution is very specific that all local government power shall be vested in cities and boroughs. I believe in this and urge you to keep that foremost in your mind when you address some needed concern. Thank you very much.

Senator **Murkowski**. Thank you very much. Senator Sturgulewski, I wonder if you could comment on what you feel that long-term impact on the State of Alaska would be if undeveloped lands were granted tax exemption as long as the lands remained undeveloped, which is the way the wording is.

Senator **Sturgulewski**. Currently there is a provision in Title 29 that allows boroughs individually to allow undeveloped lands to be nontaxable, that's there. I would much prefer to see State legislation governing this as opposed to making it a right, in a sense, with our land on the Federal level.

I do feel there will certainly be areas of land that simply are not going to be put to productive use that well should be allowed to be tax exempt. I think it is blanket exemption, more or less forever, that creates a problem. And wherever we can, I think we should move so that all residents and citizens are treated the same. So I would not like to see that exemption in Federal law.

One of the things that we have not seen this provision of Title 29 utilize, but it is there, I think as we're seeing, for example, with the new borough being formed in the Nenana region; certainly, that's going to be one of the things they're deciding when they develop their local government in their taxing policy.

Senator **Murkowski**. You mentioned your concern that sovereignty and the theoretical route under which one could conceive that sovereignty or State of sovereignty could be attained is in that portion that reads that assets may be transferred to other entities. Theoretically, you could have a village corporation transferring its land into an IRA, which is under the authority of Federal law provided.

My question is, what would be the impact to the State if corporate lands were transferred to some other entity as a tribal government?

Senator **Sturgulewski**. Well, that's one of those things that is very difficult to iron out. The question has been raised, there are a number of cases before the Court. I, along with many other people, hesitate or do not like the idea of having our whole issue of sovereignty determined piece by piece in the courts. And there's a very strong feeling that by putting the land base into the Native village governments where you have the issue yet unresolved of the amount of powers, that you may be strengthening the movement towards those sovereign powers. And again, you could get a good number of lawyers on each side of the case. But things seem to be happening in determining sovereignty more by attrition than by any other policy, and that's where I think we have seen the difficulties.

Senator **Stevens**. The difficulty I have with the report on the original bill, as I have said previously, is that it doesn't mention sovereignty. The bill doesn't mention sovereignty. Yet there are people that read into the bill itself, the original Act, the concept of sovereignty.

There are some that read now into this amendment, which legally would be an amendment to the original Act, that it does not deal with sovereignty; that by saying it does not deal with sovereignty that we somehow or other are progressing towards the sovereignty issue.

I had suggested before your testimony that we should make this Section 7 language more clear in our intent by saying what was the fact in terms of the first Act.

The difficulty I have is that we do have a couple of village corporations that have tranferred their lands to an IRA corporation. There are rights that existed prior to the statehood and prior to the enactment of the Land Claims Settlement Act in IRA designation.

We cannot, by virtue of this proposal, create another claim against the United States. So what we want really to do is state that the bill is neutral and it's not dealing with these issues, we're not trying to set up a situation where we do in fact create another claim against the United States. Now is that clear, what we're trying to do, as you're concerned?

Senator STURGULEWSKI. Senator Stevens, it's absolutely clear. I've talked at some lengh both with you and Senator Murkowski on this. The question has been raised, and again, it's the difficulty—maybe, with all due respect to you, sir, we have too many lawyers in the world that see different views. There are those that feel that the 7(c) goes back to the original law and amends that. So it may well be that clarification to make it very clear to suggest what's being amended may well be in order.

I suppose that the desirable thing would be in this legislation if there were somehow the ability to set those limits on sovereignty, And that, at least in the amount of court cases that we've had, the uncertainly as to where that issue was going has to come in any time you touch this law, because it is a delicate balance. There are many court cases. It's not clear just as to what that development is going to take.

Now the land trust that exists is difficult and has not been utilized, but that does not mean that was not a good approach. And possibly with some consideration might be a vehicle that could be utilized. Because there are certainly checks and balances in that portion from the earlier legislations.

Senator STEPHEN. Well, I believe those sovereign rights survived statehood and IRAs or anything else. When statehood was complete, we had sovereign powers in the State of Alaska and there's no entity in this State that has the powers of local self-government other than the State of Alaska. So that's my belief. The issue is important. It would be an interesting exercise perhaps, and I think it would just be that, I would just as soon not think Congress would extinguish whatever rights there were—it did not do so in the Statehood Act, it did not do so in 1971, and to ask Congress now to go back and do what was not done in either 1959 or 1971 I think would delay the possibility of getting these other solutions to the 1991 problems. That's why we have counseled that sovereignty is not part of this issue and should not be. Sovereignty is not part of the 1971 Act and should not be read into the 1971 Act by virtue of what we're doing now.

Senator STURGULEWSKI. And I'm absolutely convinced that that's the intent; and yet, as you see, you're running into a great deal of a perception issue, and that's what you have to wrestle with. But I thank you very much for the opportunity to be heard.

Senator MURKOWSKI. Thank you very much, Senator Sturgulewski.

Senator STURGULEWSKI. Thank you.

Senator MURKOWSKI. Our next witness will be Mr. Stephen Britt, Legislative Counsel for the U.S. Department of the Interior.

I would also call at this time panel three: Janie Leask, President of the Alaska Federation of Natives. This process is to expedite the hearing.

Senator Stevens, Stephen Britt also appeared in Fairbanks, and I thought it was appropriate that we have the position of the Department of the Interior on the record in both places since they play such a key role in the formation and eventual disposition of the 1991 legislation.

Mr. Britt, good morning.

Senator STEVENS. Having at one time held the position you now hold, Mr. Britt, I welcome you.

Mr. BRITT. I know that, Senator Stevens, and I'm honored to be before you.

STATEMENT OF J. STEPHEN BRITT, LEGISLATIVE COUNSEL, DEPARTMENT OF THE INTERIOR

Mr. BRITT. Good morning, Senators Murkowski and Stevens. My name is Steve Britt. I am pleased to be here today to discuss S. 2065, a bill to amend the Alaska Navtive Claims Settlement Act. This legislation, as you know, is intended to resolve what are known as the 1991 issues, those issues related to expiration of the restrictions on alienation of Native corporation stock in the year 1991.

Before I get to the substance of the Department of Interior's testimony, we would like to thank you, Senator Murkowski, in particular, for holding these hearings. They serve an invaluable purpose in defining the objectives of this legislation, identifying its long-term effects and giving us at the Department a chance to hear first-hand the desires and concerns of those most directly affected, the Natives themselves.

We support the continuing efforts to resolve the 1991 issues. We are currently conducting an indepth analysis of this proposed bill. These hearings will help that effort substantially.

Before reviewing the particular elements of S. 2065, Mr. Chairman, I'd like to reiterate the Administration's policies and goals toward Alaska Natives. These principles will guide our review of any legislation to amend the original Act.

One, we believe the Federal Government must fulfill its obligations according to the letter and spirit of the 1971 Act; two, we think there should be no significant weakening of ANCSA's Section 2(b) policy; three, we should facilitate opportunities for continued Native control of Native corporations, as we, too, support the goal of economic self-sufficiency of Alaska Natives; four, we must minimize Federal intervention and control, and, indeed, enhance Native self-determination. We also believe there should be no termination of the special federal relationship with Alaska Natives. And, finally, in these times of fiscal constraint, Mr. Chairman, we cannot support increases in or new federal obligations or liabilities.

With these concepts in mind, I must note that our preliminary review of S. 2065 has identified certain proposed changes in ANCSA that could have long-range inpacts on the Alaska Native Land policy and which, in our view, deserve further scrutiny.

These include but are not limited to the following: one, differentiating between stock held by Natives and non-Natives; two, allowing the issuance of new stock to children of Natives without consideration; three, mandating continuation of the prohibition against alienation of stock, with special emphasis on mandating that continuation; four, allowing the formation of new groups under Section 7(a) of the bill with new privileges and immunities; and, finally, creating new or extended tax privileges and land protection as in Section 21(d).

Mr. Chairman, there's substantial concern in the Department with these proposed changes for a number of reasons, including the fact that the delineation of Native common stock as it's now contained in the bill may restrict the ability of Native corporations to finance their activities through normal equity financing.

Two, the provisions allowing issuance of new stock for no consideration could result in a dilution of values in shares currently held by present shareholders. Three, the automatic extension of alienation restraints on stock could have an adverse impact on the property, interest and rights of the stockholders under current law, and, indeed, could create serious Federal liability consequences.

Four, the opportunity of dissenting shareholders to receive fair value for their stock may be significantly impinged by this bill.

Moreover, and perhaps more importantly from our standpoint, we believe that the goal of achieving Native control may be otherwise achieved than by the current bill's provisions.

We believe it may well be possible to achieve this goal, a goal that we support, by in some cases utilizing provisions of existing law, and in others, perhaps, with new legislation less sweeping in scope than S. 2065.

We also believe there may be more preferable avenues of ensuring that there's no impairment of subsistence uses of Native land.

Finally, we are concerned that the tax exemption and other immunities provided in the bill automatically could create unintended problems for conservation management.

In conclusion, Mr. Chairman, we continue to support the original Act, but recognize and indeed support the concept that additional issues must be worked out before 1991.

While the Department has not yet finalized its position on this particular bill, we believe we should keep in mind that ANCSA was indeed a settlement of many important and serious issues—we are now almost 15 years into its operation, and we should not lightly consider changes in its structure, especially those that go beyond the lifting of restrictions.

On that point we are likewise concerned and supportive of seeking additional avenues of Native protection. However, we must ensure that any such protection should not undermine the other benefits of the original Act.

With that, Mr. Chairman, we pledge our best efforts at the Department to upgrade and improve ANCSA. In this regard, the Department has already met with various Alaska Native groups and their representatives, including the Alaska Federation of Natives, in order to discuss our concerns. Those discussions are scheduled to continue in June.

We are grateful to the committee for holding this hearing and we look forward to working with you and the State of Alaska and Alaska Natives to produce acceptable legislation.

[The prepared statement of Mr. Britt follows:]

STATEMENT OF J. STEPHEN BRITT, LEGISLATIVE COUNSEL, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 2065, A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

MAY 24, 1986

Mr. Chairman, I am pleased to be here today to discuss S. 2065, a bill "To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act and for other purposes." This legislation is intended to resolve what are known as the "1991" issues--those issues related to expiration in the year 1991 of the restrictions on alienation of Native corporation stock.

Before I get to the substance of the Department of the Interior's testimony, Mr. Chairman, we would like to commend you and Senator Murkowski for holding these hearings. They serve an invaluable purpose in defining the objectives of the legislation and in identifying the long-term policy implications of changes in the original law. We support the continuing efforts to resolve the 1991 issues, and are currently conducting an in depth analysis of the proposed legislation in order to ensure that it conforms with this Administration's policies.

The Alaska Native Claims Settlement Act of 1971 (ANCSA) is unique. It provided a form of settlement for longstanding Native land claims in Alaska by use of an unusual corporation system, including individual stock ownership by Alaska Natives. Under the terms of ANCSA, these shares in ANCSA corporations remain inalienable, except for a few special situations involving court decrees, until the end of 1991. As we move closer to this deadline, several parties have expressed concern that free sale of stock by the Natives could result in widespread loss of Native lands and rights through loss of ownership and control of the corporation, and that 20 years is not long enough to secure a solid future for these Alaska Natives.

We support the bold principles and carefully negotiated framework of ANCSA. The corporate model has laid the groundwork for achievements by Native stockholders beyond what has been possible for Native populations in the lower 48. Although the impacts of the Act have varied from corporation to corporation, we believe the results of the law show an emerging pattern of success that should be allowed to continue. Because of our faith in its original design, we believe that any changes or amendments to the basic framework of the 1971 Act must be carefully scrutinized.

Therefore, we approach S. 2065 by measuring it against certain policies and goals of this Administration toward Alaska Natives. These include the following:

1. The Federal Government must fulfill its obligations according to the letter and spirit of the 1971 Act;

2. There should be no significant diminution in ANCSA's section 2(b) policy. Section 2(b) makes explicit ANCSA's policy of rapid settlement, conformance with the real economic and social needs of Alaska Natives, no litigation, maximum participation by Alaska Natives, no permanent racial institutions or privileges, and no new categories of property and institutions;

3. We should facilitate appropriate opportunities for continued Native control of Native corporations. We seek this because of our support for the goal of

economic self-sufficiency of Alaska Natives. In addition to preserving the cultural benefits of Alaska Native's owning their own land, this policy lessens the risk of concentration in the hands of a few of the economic power inherent in these natural resources;

4. We seek to minimize Federal intervention and control, and to enhance Native self-determination;

5. There should be no "termination" of the special Federal relationship with Alaska Natives; and

6. Finally, we cannot support any increases in, or new, Federal obligations or liabilities.

Underlying these goals and policies are some fundamental assumptions. Among these are that individual Alaska Natives are not, and should not be treated as though they are, incapable of formulating basic judgments about their own well-being. Moreover, we are convinced that the leadership of most Alaska Native corporations is quite sophisticated and increasingly has demonstrated the ability to utilize both inside and outside talent when it furthers the interests of the corporation. We do recognize, however, that some corporations are not as fortunate.

With these concepts in mind, Mr. Chairman, I must note that our preliminary review of S. 2065 has identified certain proposed changes in ANCSA that could have long-range impacts on Native land policy in Alaska and which, in our view, deserve further scrutiny. These include, but are not limited to, the following:

1. Differentiating between stock held by Natives and non-Natives;

2. Allowing the issuance of new stock to children of Natives without consideration;

3. Mandating continuation of the prohibition against alienation of stock;

4. Allowing the formation of new groups under section 7(a) of the bill with new privileges and immunities; and

5. Creating new or extended tax privileges and land protection in section 21(d) of ANCSA (section 10).

There is substantial concern in the Department over these proposed changes for the following reasons, among others:

1. The creation of "Native Common Stock" may restrict the ability of Native corporations to finance their activity through normal equity financing;

2. Provisions allowing issuance of new stock for no consideration could result in the dilution of value of shares held by present shareholders;

3. Automatic extension of alienation restraints on stock could have an adverse effect on property interests and rights of stockholders under current law and could create serious Federal liability consequences;

4. The opportunity of dissenting shareholders to receive fair value for their stock may be significantly impinged by the legislation;

5. Many of the proposed changes may be unnecessary to guarantee Native ownership and control of the corporations. It is possible to achieve the expressed goal of facilitating continued Native control by utilizing provisions of existing law and/or new legislation which is less sweeping in scope than the bill currently before you;

6. We believe there may be other avenues of ensuring that there is no impairment of historic subsistence uses of Native lands that avoid the problems we have outlined herein; and

7. Finally, we are concerned that the tax exemption and other immunities provided in the bill go beyond the basic goals of Alaskan land protection and could create unintended problems for conservation management.

In conclusion, we continue to support the original settlement Act, but recognize that many issues must be worked out before the 1991 deadline. The Department of the Interior, however, has not yet finalized its position on the bill before you.

We fully recognize, Mr. Chairman, that this legislation is only a part of an ongoing process and we pledge our best efforts to upgrade and improve on the new experiment of the Alaska Native Claims Settlement Act. In this regard, the Department has already met with various Alaska Native groups and their representatives, including the Alaska Federation of Natives, in an attempt to resolve our concerns with the legislation. Those discussions are scheduled to continue next month. We are grateful to the Committee for holding hearings on these issues, and we look forward to working further with you, the State of Alaska, and Alaska Natives to produce legislation acceptable to all.

Senator MURKOWSKI. Thank you very much, Mr. Britt. For the record, would you elaborate a little bit more on the justification for concern of the Department of the Interior on the Government's liability with regard to any changes contemplated in this legislation. Please include the addition of the Senate's rights so we can see for ourselves the position of the Federal Government with regard to liability if a minority shareholder filed suit.

Mr. BRITT. I would be happy to, Mr. Chairman. We are very concerned, as I think we have tried to indicate, that this was a settlement in 1971 and we're 15 years into its operations, and we think that certain rights have attached. Not only was it a settlement of collective claims but individual claims which included the issurance of stock to individual shareholders. And we are concerned that mandating the extension of restrictions may have an impact on those individual stockholders, and since it's done through the vehicle of Federal law, there could be a federal liability.

From the standpoint of dissenting shareholders, we are concerned with the fact that dissenting shareholders have the right to sell their stock only to the corporation itself. ANCSA in its evaluation of that may include with it maybe less value to the corporation itself; that is, they can exclude certain lands from the valuation of that same shareholder's stock and, in fact, may issue—may pay it with non-negotiable debentures.

And from our standpoint, the fact that the alienation restrictions are mandated by the Federal law may indeed give rise to some Federal liability.

Senator MURKOWSKI. Senator Stevens.

Senator STEVENS. I just want to say, Mr. Chairman, I hope you will excuse me now. I have some conference calls from Washington. I will return as soon as I can to be with you. Thank you.

Senator MURKOWSKI. Thank you very much, Senator Stevens.

As you recall, from participating in the Fairbanks' hearing, we had many witnesses reflected on the difficulty of the compatibility of the corporations with the traditional tribal affiliation that exists in the villages. We have basically, a village corporation structure, but we have a tribal tradition that's bound in common interest and so forth. We also have a more sophisticated regional corporation and its structure that has had some time to participate in the corporate world.

I wonder if you could comment on this area of delicacy in the sense of the village people not feeling comfortable with the corporation and looking for something that would sustain their traditions. The tribal association provides that, but in order to achieve it, it would mean basically acknowledging that the corporate structure has not proved to meet their desires. And in order to abandon the corporate structure, they would have to pursue an association or a reservation or acknowledge that the decision to pursue corporations wasn't in the long-term interest of the village tribal activity. How do you read feeling? Can they have it both ways?

Mr. BRITT. Mr. Chairman, I think it's a little difficult to have it both ways. We're real sensitive. As our testimony highlights, we have not even completed a final position on the bill. We're troubled. We support many of the goals of the legislation, but we're concerned about maybe the best way of getting there. And we see various levels of development under this corporate structure; some have done very well, others not as well, and it's the same with the villages.

It seems to us real difficult, kind of in a midstream, you know. It's an Act that was passed 15 years ago. We think the corporate structure was a good choice back in 1971. We think that it is kind of a mini-democracy, it has ways of being flexible and meeting the needs of its shareholders, but to now change and to try to go back to something other than that—we're very hopeful that it's not an either-or situation and we can find ways, maybe, if there are amendments needed—to make it more meet the needs of the Natives themselves, and we can do that without great violence to the intent of the original settlement and rights and expectations that may be have been created. Actions have been taken since 1971 pursuant to those expectations both at the regional and the village and at the individual level; we will support that. But I don't think that it's an either-or situation. We would like to continue toward with the original concept, make changes as we agree are necessary, and limit it to reach those particular difficulties that we see rather than trying to back out of the situation.

Senator **Murkowski**. It's been explained that the Department of the Interior hasn't conveyed all the lands at this time, and that's part of the problem. If the villages had the lands, the regional corporations had the balance of their lands, I think it might be much different.

How much land still remains to be conveyed and when can we expect the rest of it to be conveyed?

Mr. **Britt**. Senator Murkowski, we're just over 34 million acres conveyed.

Senator **Murkowski**. Out of 42, 44.

Mr. **Britt**. Just over 80 percent, I think. As far as our exact status and projected dates, we are current on our regional conveyances to Natives at the Department and are, frankly, awaiting the second group of applications from Natives. There's been a little bit of a shift in the emphasis to the survey process.

We believe that many of the Natives are satisfied that they have the majority of it and they're anxious to get on with the patent process, and we're doing that. We're processing the remaining individual conveyances; interim conveyances remain to be processed. We are fairly current. And there seems to be an interest both at the State and Native level of "let's get on with these surveys," which are so troublesome. We have been trying to emphasize that to the extent of trying to meet the needs of the Natives as they perceive them.

Senator **Murkowski**. That means the rest would be conveyed by when?

Mr. **Britt**. Frankly, I was asked that question up at Fairbanks, and it's not one I'm sure I should——

Senator **Murkowski**. That's why I thought I would ask you again.

Mr. **Britt**. We're down to many of the smaller areas and the quality areas that are extremely important and even more time consuming. They tell me, finally, that we're looking like at a 40-year time frame—although I hate to lay that out to you. It is an extremely cost-intensive subject. So it looks to be some time. Although from our standpoint we are fairly current with the applications, so it seems like we have reached some level of equilibrium; "try to get on with these surveys and let's get these things patented."

Senator MURKOWSKI. You've given us a good legal answer. The record will be open for 30 days and we would appreciate the Department of the Interior defining in a more precise manner when we can expect the balance of the 6 million acres. I assume you were gesting when you made mention of 40 years.

Mr. BRITT. I'll get you a more specific date.

Senator MURKOWSKI. The answer was yes, or no?

[The information follows:]

Under the Alaska Native Claims Settlement Act (ANCSA), Native corporations are entitled to select 44 million acres of Federal land in Alaska. Transfer of these lands is a two-part process requiring both title transfer and title confirmation by patent following survey. Completion of Native entitlement is therefore dependent on survey. Title transfer, called an "interim conveyance" (IC), has been authorized, thereby allowing the Native corporations to derive immediate economic benefit from land development and use. Transfer of an IC, however, does not release the Federal government from the obligation to survey and issue patent.

To date, a total of 34,410,311 acres, or 78 percent, of the Native entitlement has been IC'd to the corporations. Approximately a total of 4.5 million acres, or 13 percent, of selected land has been surveyed and patented to the corporations. In the past, the Department's effort has been directed toward conveying the lands as they were selected by the Native corporations. As the number of acres IC'd approaches the total entitlement, the Department's emphasis is shifting to survey and patent -- a slower, more expensive process. As Native corporations prioritize their remaining land selection decisions, the Department is prepared to expeditiously convey title to the corporations.

The Bureau of Land Management is implementing the patent process to increase efficiency of patent delivery to the Native corporations. Beginning in 1990, the Department will patent between one and three million acres each year to the corporations. Based upon current funding projections for survey, approximately 40 to 50 years will be required to issue patent on all Native selections. Native selections tend to require complex surveys of inholdings and mining claims. The complexity and number of these inholding surveys lengthen the time to complete patent.

Senator MURKOWSKI. Can you elaborate—and this is my last question—can you elaborate on the status of the land banks that we have heard so much about and these agreements—what the process consists of, why it has taken so long, why it's been relatively unsuccessful? Don't we have one in California where there is land in the land bank, agricultural land? It seems to be a great theory but for some reason it has not been very practical?

Mr. BRITT. Well, that's another area of concern with the bill and another area that I've been a part to with surveys. I'm pleased to tell you we have been in the process of trying to formulate guidelines. We are very concerned that under this bill the automatic extension, its tax protections and title protections could give us some conservation problems; that is, that under ANILCA, there is now a mechanism for continuing that protection, although it involves the management of those lands compatible with the adjacent or directly affected federal lands.

I know that it has been a long process. We have had trouble getting the program off and running. I understand we are about to complete our first such agreement. I'm hopeful from here that the process should speed up. As far as, literally, the answer to your question, we have been trying to formulate the guidelines from the Department level as to how each of the bureaus here should implement the program and the types of agreements we're looking to achieve from our standpoint, too. At any point anybody would like the basic core agreement, which extends the tax and title protections, we must grant that, as you know as a matter of law, and we will do that.

So it's been time in the policy formation level, but we're hopeful that from here on out—between here and any lifting of tax exemptions—we will be able to provide any and all projections.

Senator MURKOWSKI. It's my understanding that you are currently communicating with both the AFN Council and other interested parties concerning the development of this legislation. Is that correct?

Mr. BRITT. That is correct, Senator.

Senator MURKOWSKI. Thank you very much, Mr. Britt. We appreciate your testimony.

I would call up panel four as we begin with panel three. Panel four consists of Harold Heinze, President of ARCO Alaska, and Hank Giegerich, President of Cominco Alaska. If you gentlemen would come up, please. We will begin panel three at this time with Janie Leask, President of the Alaska Federation of Natives, who is accompanied by John Shively.

And as a matter of interest, I intend to proceed through the lunch hour so we complete the hearing today. We had about seven hours and fifteen minutes without a break in Fairbanks, so I think we can proceed with this group in the same way. As I stated, we had about 126 witnesses in Fairbanks, and it looks like we're still under 60 here. So that's just half of a good day's work.

Ms. Leask, would you please proceed.

STATEMENT OF JANIE LEASK, PRESIDENT, ALASKA FEDERATION OF NATIVES

Ms. Leask. Thank you, Mr. Chairman. For the record, my name is Janie Leask, and I'm President of the Alaska Federation of Natives. I will just summarize my statement right now.

AFN and members of the Native community have been working on the 1991 issues for a number of years, since 1982, when we identified what we considered three major flaws in the Settlement Act. One is the very real potential for loss of control of the corporations when the stock becomes unrestricted in 1991; secondly is the potential loss of Native land. That land is considered an asset of corporation. Thirdly, has to do with the issues of new Natives; those young people who were born after the Act was signed into law who are not currently eligible for direct participation of benefit in the corporation.

As I mentioned, we began our work back in 1982 with discussions and then further identification and legal research on the various issues of what we term 1991. 1991 has basically come to mean for Native people and longstanding concern for protecting the land for both cultural and economic purposes, and making the settlement received in 1971 work for the benefit of Native people.

We drafted a series of resolutions in 1984 in response to what we felt were solutions to these long-standing concerns. We pass those resolutions at a special convention in March of 1985. And we circulated the draft legislation based on those resolutions widely among the Native communities. And in October of 1985 at an ANF convention, the delegates direct AFN to submit that legislation to Congress. We then hand-carried it to Washington, DC in December. We met ongoing with the Department of the Interior and the State of Alaska and members of our congressional delegation.

We are continuing those discussions, as noted, with the Department of the Interior. The general purpose of the legislation is to create a variety of options for each ANCSA corporation to use in deciding how to fulfull the desires of its own shareholders.

And it should be noted that the basic purpose of the amendment is to permit the shareholders to decide their own future rather than having that future decided for them through imposition of any law.

Two primary points must be kept in mind when considering the legislation. The first is that we recognize that we are, in fact, changing a fundamental concept on which ANCSA was originally built through the desire to continue the stock limitations. The second point is that the focus of the settlement is on the collective rights of Native communities; a focus that reflects traditional Native values. This legislation includes provisions for protecting individual Native shareholders, if that is the will of the majority, but it must be so that the focus of the changes is on preserving the collective rights of Natives through strengthening Native corporations.

I must also just for the record, and I guess reiterate our position all along, is that we intend this legislation to have nothing to do with the sovereignty issue. And we feel that through Section 7 that accomplishes that.

We would hope that any questions would be cleared up, but we again say that legislation has nothing to do with eliminating sovereignty.

We look forward, Mr. Chairman, to continuing work both with the Department of the Interior and the Committee in seeing that this legislation passes.

[The prepared statement of Ms. Leask follows:]

ORAL TESTIMONY OF JANIE LEASK, AFN PRESIDENT
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
ON S. 2065

MR. CHAIRMAN, SENATOR MURKOWSKI, MY NAME IS JANIE LEASK, PRESIDENT OF THE ALASKA FEDERATION OF NATIVES. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO TESTIFY IN SUPPORT OF S. 2065, A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

THE 1971 ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) WAS A NOVEL APPROACH TO THE SETTLEMENT OF ABORIGINAL LAND RIGHTS FOR, IN THIS CASE, CONGRESS SETTLED THE CLAIMS DIRECTLY BY LEGISLATION, CREATED A COMPLICATED STRUCTURE OF CORPORATIONS, TRANSFERRED TITLE TO APPROXIMATELY 44 MILLION ACRES OF LAND TO THOSE CORPORATIONS, AND PAID THOSE CORPORATIONS ALMOST $1 BILLION FOR EXTINGUISHING THE NATIVE CLAIMS TO THE REST OF THE LAND IN ALASKA.

IN 1971 CONGRESS RECOGNIZED THAT ALASKA NATIVES WERE NOT PREPARED TO STEP IMMEDIATELY INTO THE CORPORATE WORLD AND IT THEREFORE PROVIDED FOR A 20-YEAR PERIOD WHEN THE STOCK IN THESE CORPORATIONS WAS TO BE INALIENABLE. THESE RESTRICTIONS ARE SCHEDULED TO EXPIRE ON DECEMBER 18, 1991.

IN 1971 CONGRESS ALSO DECIDED TO LIMIT PARTICIPATION IN THE SETTLEMENT TO ALASKA NATIVES WHO WERE ALIVE ON THE DATE THE ACT WAS SIGNED INTO LAW. THE INEVITABLE CONSEQUENCE OF THIS DECISION HAS BEEN TO CREATE TWO CLASSES OF ALASKA NATIVES: THOSE BORN ON OR BEFORE DECEMBER 18, 1971 WHO OWN STOCK IN THE

CORPORATIONS; AND THOSE BORN LATER WHO ARE NOT ENTITLED TO ANCSA STOCK EXCEPT THROUGH INHERITANCE. THERE IS WIDESPREAD DISSATSIFACTION THROUGHOUT THE NATIVE COMMUNITY OVER THE FACT THAT NATIVE CHILDREN DO NOT RECEIVE ANCSA STOCK DESPITE THE FACT THEY MAY BE JUST AS MUCH A NATIVE AS THEIR PARENTS WHO DID RECEIVE STOCK.

THESE TWO ISSUES ALONG WITH OTHER ASPECTS OF THE SETTLEMENT HAVE GENERATED WIDESPREAD CONCERN WITHIN THE NATIVE COMMUNITY. AFN, AND MEMBERS OF THE NATIVE COMMUNITY HAVE BEEN WORKING ON THE "1991" ISSUES FOR THE PAST FOUR YEARS TO ADDRESS THESE CONCERNS. THERE ARE A NUMBER OF ISSUES TIED UP IN THE TERM "1991" - BUT BASICALLY IT HAS COME TO MEAN, FOR NATIVE PEOPLE, OUR LONG-STANDING CONCERN FOR PROTECTING THE LAND - BOTH FOR CULTURAL AND ECONOMIC PURPOSES; AND FOR MAKING THE SETTLEMENT RECEIVED IN 1971 WORK FOR THE BENEFIT OF NATIVE PEOPLE.

WE DRAFTED PROPOSED AMENDMENTS TO ANCSA WHICH REFLECTED A CONSENSUS EXPRESSED IN RESOLUTIONS ADOPTED AT AN AFN SPECIAL CONVENTION HELD IN MARCH OF 1985. THAT DRAFT LEGISLATION WAS WIDELY CIRCULATED THROUGHOUT ALASKA AND DISCUSSED AGAIN AT AN AFN CONVENTION HELD IN OCTOBER OF 1985. WE THEN HAND-CARRIED THE LEGISLATION TO WASHINGTON, D. C. WHERE THE LEGISLATION WAS REVIEWED BY KEY INDIVIDUALS IN CONGRESS, THE DEPARTMENT OF INTERIOR AND THE STATE OF ALASKA. MODIFICATIONS WERE MADE, AND THE LEGISLATION WAS INTRODUCED AS S. 2065.

THE GENERAL PURPOSE OF THE LEGISLATION IS TO CREATE A VARIETY OF OPTIONS FOR EACH ANCSA CORPORATION TO USE IN DECIDING HOW TO FULFILL THE DEISRES OF ITS OWN SHAREHOLDERS. IT SHOULD BE NOTED THAT THE BASIC PURPOSE OF THE AMENDMENTS IS TO PERMIT THE SHAREHOLDERS TO DECIDE THEIR OWN FUTURE RATHER THAN HAVING THAT FUTURE DECIDED FOR THEM THROUGH IMPOSITION OF LAW.

THERE ARE TWO PRIMARY POINTS THAT MUST BE KEPT IN MIND WHEN THIS LEGISLATION IS CONSIDERED. THE FIRST IS THAT WE RECOGNIZE THAT WE ARE, IN FACT, CHANGING A FUNDAMENTAL CONCEPT ON WHICH ANCSA WAS ORIGINALLY BUILT. THE 1971 LEGISLATION ENVISIONED ONLY A 20-YEAR PERIOD OF INALIENABLE STOCK. WE URGE THAT THE 20-YEAR LIMITATION BE LIFTED AND THE POSSIBILITY OF A PERPETUAL RESTRICTION BE AUTHORIZED IN ITS PLACE.

THE SECOND POINT IS THAT THE FOCUS OF THE SETTLEMENT IS ON THE COLLECTIVE RIGHTS OF NATIVE COMMUNITIES - A FOCUS THAT REFLECTS TRADITIONAL NATIVE VALUES. THIS LEGISLATION INCLUDES PROVISIONS FOR PROTECTING INDIVIDUAL NATIVE SHAREHOLDERS - IF THAT IS THE WILL OF THE MAJORITY - BUT IT MUST BE SAID THAT THE FOCUS OF THE CHANGES IS ON PRESERVING THE COLLECTIVE RIGHTS OF NATIVES THROUGH STRENGTHENING THE ANCSA CORPORATIONS.

THIS FOCUS IS BUT A REFLECTION ON NATIVE VALUES AND THE RESULT OF YEARS OF EXPERIENCE UNDER ANCSA. THE LEGISLATION DOES NOT FORCE ANY ANCSA CORPORATION TO EXTEND THE ALIENATION RESTRICTION. ANY CORPORATION WISHING TO END THE RESTRICTIONS CAN DO SO.

THIS BILL MERELY OPENS UP OTHER ALTERNATIVES FOR CORPORATIONS TO FOLLOW, IF THE SHAREHOLDERS OF THOSE CORPORATIONS PREFER THOSE ALTERNATIVES.

MR. CHAIRMAN, ALTHOUGH WE'VE STATED THIS TIME AND TIME AGAIN, I FEEL THAT AGAIN - FOR THE RECORD, IT IS NECESSARY TO STATE FOR THE RECORD THAT THIS PROPOSED LEGISLATION DOES NOT DEAL WITH THE SOVEREIGNTY ISSUE. THIS BILL DOES NOT ALTER THE LAW OR CHANGE THE STATUS OF ALASKA NATIVES WITH RESPECT TO THE SOVEREIGNTY ISSUE. ANCSA ITSELF DID NOT DEAL WITH THAT ISSUE AND WE DO NOT INTEND TO DEAL WITH IT IN THE CONTEXT OF THE ANCSA AMENDMENTS.

THE LEGISLATION CONTAINS A DISCLAIMER WHICH HAS BEEN CAREFULLY AND PURPOSELY DRAFTED TO MAINTAIN THE STATUS QUO WITH RESPECT TO THE UNCERTAINTY ABOUT THE EXISTENCE OR NON-EXISTENCE OF NATIVE VILLAGES AS FEDERALLY-RECOGNIZED INDIAN TRIBES. WE FEEL THE DISCLAIMER, AS PRESENTLY WORDED, ACCOMPLISHES THE NEUTRALITY WE SEEK - BUT IF THERE ARE THOSE WHO FEEL IT DOES NOT, WE HAVE ALWAYS INDICATED OUR WILLINGNESS TO LOOK AT LANGUAGE WHICH WOULD MAKE THE POINT CLEARER THAN THE LANGUAGE PRESENTLY CONTAINED IN THE LEGISLATION.

THE 1991 LEGISLATION IS IMPORTANT TO ALASKA NATIVES - WE HAVE WORKED HARD THESE PAST FOUR YEARS IN DISCUSSING THE ISSUES, DRAFTING WHAT WE FEEL ARE VIABLE SOLUTIONS, AND THEN FINALLY REACHING A CONSENSUS AMONG ALASKA NATIVES ON PROPOSED LEGISLATION.

THE LEGISLATION YOU HAVE BEFORE YOU REFLECTS A COMPREHENSIVE EFFORT BY ALASKA NATIVES TO ADDRESS WHAT WE HAVE SEEN AS MAJOR FLAWS OF ANCSA. WE APPRECIATE THE SUPPORT WE HAVE RECEIVED IN SEEKING THESE AMENDMENTS AND WE WILL WORK WITH YOU IN ANY WAY WE CAN TO SEE THE LEGISLATION TO A SUCCESSFUL CONCLUSION.

THANK YOU, MR. CHAIRMAN, SENATOR MURKOWSKI, AND MEMBERS OF THE COMMITTEE FOR YOUR ATTENTION TO THIS IMPORTANT BILL.

Senator MURKOWSKI. Thank you very much, Ms. Leask.

You mentioned that the legislation did not concern itself with the sovereignty issue. Under that particular portion that suggests the transfer of assets to other entities you could theoretically achieve a state of sovereignty. And I'm wondering if you have any recommendation towards any language that might clarify that issue?

Ms. LEASK. Section 7(c), specific language?

Senator MURKOWSKI. Yes.

Ms. LEASK. No, sir, we don't right now. Although we have all along said that if somebody else can come up with some better language that we would be open to taking a look at it. But we don't have any other specific language other than what is contained in Section 7(c).

Senator MURKOWSKI. Well, let's explore this for a minute, because it came up probably more than any other subject during the Fairbanks hearing.

If my memory serves me correctly, and I'll try and be general yet conclusive, the structure would be to take a village corporation and convey, for reasons that I assume are lack of understanding of the corporate structure or discomfort that it doesn't provide it with the tribal unity, and change their structure. They would move into this other entity which is provided in the language, "transfer assets to other entities," quote, unquote. Thereby, achieving, under an IRA, a state of sovereignty where they would have revenue-producing lands, and in the IRA these lands would be tax exempt. This would theoretically give them a particular preference. Recognizing that under federal law, IRAs are chartered. We have 80 IRA's already within the State of Alaska, so they're not something that is foreign. But the concern is that this allows this passage, if you will, of the village corporation.

Now, on the other hand, it was expressed in the Fairbank's hearing that there are many who might want to change the structure from a corporation to an association or a quasi-reservation status, because it provides things that they may be looking for. It provides continuity for those new-borns, because everybody belongs in the association for an unended period of time.

Now the question here is two-fold. Do you feel that if it came down to surrendering their shares, which represents their equity in their corporation, for the benefit of all, which would be this new structure that the village people are ready to make that kind of decision? They would be giving up an equity, something that has a value for the benefit of all, and then they would achieve some of their objectives; such as taking care of those born after 1971. Is that, in your opinion, through talking to the villages through the AFN, what they're looking for?

Ms. LEASK. Yes, sir, I believe that it is. Over the discussions that we have held over the last several years, it has become apparent at least on the village level that there is a desire to move out of the corporate structure because it doesn't make sense in the villages. And a lot of the villages are just not used to the restrictions and requirements put on them by the corporate structure. But at the same time, this is a decision that needs to be made by the shareholders; because there are village corporations right now in various areas that are working, and the shareholders in these corporations feel very comfortable with the corporate structure. But the whole purpose behind this is to allow the shareholders to make that decision of their comfort level—I guess, with the corporation versus making another kind of structure. And that could be an IRA, it could be a nonprofit or some other kind of structure that would be more suitable to their own needs.

But I believe that at least in the discussions and all that I have held with a number of people is that they are not questioning the giving up of their individual stock in those instances when they feel very strongly about moving out of the corporate structure. Their owning stock, and giving that right up is not really an issue to the majority of people. It is, when you take it on balance, that it's worth more to them to be able to get into some kind of structure where everyone in the community can be considered as a member rather than have the dividing lines.

Senator MURKOWSKI. Let's assume we transferred the village corporation into an association or reservation or whatever. The question of the tax exempt status of their land comes up for consideration. Now would that land, if it were developed, be subject to taxation by whatever local government entity was there, or would it be tax exempt?

Ms. LEASK. I believe—maybe John could expand on it a little bit more, but I believe a lot of that is up in court cases, it's tied up in court cases right now. There's a real question of whether or not that land going to an IRA would automatically then become Indian Country.

Mr. SHIVELY. I think, Senator, the question is whether or not the land once it's developed is taxable. I suspect it's taxable under any scenario. The question is whether it's Indian Country and, therefore, who taxes it. If it's Indian Country right now by means of a transfer—let's take the Venitie situation where the lands have been transferred to an IRA, they have a right since that is Indian Country to tax those lands as an Indian government. If it is not Indian Country, then the State retains the right to tax those lands. And what we have said in the legislation—or tried to, and there's some debate about how we said it, is that whatever the status is before the legislation passes it should be after.

Now, I think if you look at the government's sovereignty test or federal tribal relations task force report, you will find that they pretty much assume that there is not Indian Country in Alaska, and, therefore, since the transfers were made under our legislation and that land would be then taxable by the appropriate local government or municipality.

Senator MURKOWSKI. I wonder if, for the record, you would introduce yourself to the reporter.

Mr. SHIVELY. My name is John Shively, and I'm consultant to the Alaska Federation of Natives.

Senator MURKOWSKI. And would you also explain for the record and for those of us who do not know what an IRA is?

Mr. SHIVELY. An IRA is what we refer to as the Indian Reorganization Act. It's a council that was set up as the result of federal law that was first passed in 1934 and then amended in 1937.

Senator **Murkowski**. And do we have some 80 in the State currently?

Mr. **Shively**. That's my understanding.

Senator **Murkowski**. And are any of those functioning under Indian Country?

Mr. **Shively**. Well, are they functioning under Indian Country? I don't know if that's the appropriate question. It's hard to say. There are some that have claimed that they have rights that one would assume were there because of Indian Country. And, as Ms. Leask has pointed out, those rights are now being contested in court, and a couple of other cases will soon be contested.

Senator **Murkowski**. I will ask either one of you to answer this question. Have you any language that you would consider that might be appropriate that attempts to clear up the confusion surrounding the issue of sovereignty in the sense of the more extreme case where we did get the extension of the Indian Country per se so that that land would be tax revenue-producing to the IRA and exempted from any other State authority? This seems to be the concern of those who testified at Fairbanks against the legislation.

Ms. **Leask**. We have not yet drafted any language to do that.

Senator **Murkowski**. The record will remain open for 30 days and we would appreciate any reference that the AFN might care to make, because as a consequence of these hearings while we're compiling a record on these various points of concern, some points of confusion are arising. And as was stated in the opening statement, this proposal is in the form of amendments that can be changed simply by addendums. And there already have been several suggestions on clarifying language.

Let me just summarize for you, if I may briefly, the tenor of the testimony so far with regard to the 1991 issue itself. That is, keepifg stock non-transferable for an extended period of time beyond 1991. Since this is a Native issue and the Natives are the recipients of the stock and no non-Natives are, that particular issue seemed to meet with uniformity in the sense that it was a Native problem. If the Natives wanted to extend the non-transferability, that was fine. The question of hgw and the justification of passing it on to other heirs—if a Native man married a non-Native woman, what the ultimate disposition would be—were internal problems that were addressed. But still, the question of extending 1991 in itself did not seem to be a major hurdle. The question of those born after 1971 was also summarized as a Native issue and an issue that no one had a great deal of objection to.

The question is, how can this be done, since there is no further money, nor further land being offered; and the only alternative decision is a dilution of existing shares and under what formula and how do you take care of all those Natives yet to be born without revising the formula from time to time unless you go into further stock or other issues. The areas where we did get into a good deal of controversy was over the taxation of lands. And it seemed to be generally stated that as long as the lands were generating revenue, they would have an appropriate tax assessment. Then the last issue, of course, was the transfer of other entities.

And the reason I take the time to go into that is since you're the sponsoring organization representing the Natives of Alaska, why that type of summary may be helpful and I think it reflects on the committee's current deliberations on the major issues encompassed in the legislation as well as the issue of a land bank, which still has yet to function under the Department of the Interior.

I have no further questions for the panel. I wish you a good day and thank you for your testimony.

Ms. **Leask**. Thank you, Senator.

Senator **Murkowski**. I would call panel five, Larry Lau, Manager of AHTNA; Agafon Krukoff, President of the Aleut Corp.; Don Nielsen, Chief Executive Officer, and Steve Silver, Counsel, Bristol Bay Native Corp.; John Monfor, Vice President of Cook Inlet Region, Inc.; and, finally, Frank Pagano, President Koniag, and Nelson Angapak, President of Calista.

We will proceed with panel four. And joining Mr. Heinze, President of Arco Alaska, would be Mr. Hank Giegerich, President of Cominco, Alaska.

Mr. Heinze, we wish you a good day and look forward to your testimony this morning.

STATEMENT OF HAROLD HEINZE, PRESIDENT, ARCO ALASKA, INC.

Mr. **Heinze**. Good morning, Senator. It's very good to be here. My prepared testimony is relatively short, I would appreciate the opportunity to read it into the record.

Senator **Murkowski**. Your entire statement will be entered into the record as if read.

Mr. **Heinze**. My name is Harold Heinze. I am the President of ARCO Alaska, Inc. I appreciate the opportunity to participate on this panel today.

Alaska's economy depends on healthy corporations and the prudent development of the land and natural resources contained within her boundaries.

The Native regional corporations have given rural Alaska a stake in the mainstream of Alaska's economy, opened employment opportunities to the residents in remote villages, and stimulated commerce throughout the state.

The financial strength of Native and other corporations is dependent on the ability to attract money and strong financial backing. Therefore, the shareholder option sections of the 1991 amendments to ANCSA are important to Alaska and will benefit all Alaskans.

The Native regional corporations created under the 1971 Alaska Native Claims Settlement Act are unique in U.S. history.

The federal guidelines for these corporations also were unique as well as restrictive. The bold business approach of Congress conveyed the settlement's financial land and resource assets to restricted stock corporations.

As in any business experiment, the financial success and acceptance of the corporations has varied and the role of the Native corporation is still emerging.

The federally-mandated grouping of shareholders has created divisive differences and unproductive tensions that must now be dealt with without delay.

The shareholder option amendments are necessary for the long-term viability of an important and large part of the Alaskan economy.

Congress will consider granting standard corporate flexibility options to the ANCSA shareholders. We believe that a viable shareholder corporation needs these flexible options to meet the needs of its shareholders and to carry out the business purposes which may vary from one corporation to another.

Too much of Alaska's economy is at risk. Therefore, shareholder options contained in Sections 3 and 4 of the proposed amendments should be adopted in time to facilitate the complex implementation of the changes and ensure compliance with the ownership and voting requirements.

We choose to participate in these proceedings because of our strong support for the Native corporation stockholder option amendments.

The other sections of the proposed ANCSA amendments are public policy issues that are beyond the scope of our interest for these hearings.

Senator MURKOWSKI. Thank you very much, Mr. Heinze.

We will now hear from Mr. Hank Giegerich, President of Cominco. He's not here. All right. We have a panel of one. I guess you're it, pal.

One of the concerns that has been expressed time and time again is the realism of expecting the corporation to both provide for long-term economic benefits and yet be a vehicle by which traditional cultures could be maintained. Since you are the president of one of the larger corporations in the energy field, structured in the corporate economics and corporate background, can it be both ways, recognizing your obligation to your shareholders and the obligation that the Native management has under its corporate structure to its shareholders?

Mr. HEINZE. Well, Senator, I think in regards to general corporation, I think the issue you raise is social responsibility in the classic sense. And, certainly, I think all major corporations have tried to find ways to be socially responsible.

A number of years ago, I observed to some folks that over a period of time I felt the Native regional corporations might define a whole new standard of social responsibility for American corporations.

Maybe more relevant to your question is an observation I will make as to our interactions with a number of the Native regional corporations. We have various business relationships as a company at varying times with anywhere from four to six of the regional corporations. Some of those corporations are much more urban-oriented, they have very few villages in their structure. They have been very successful businesses.

A number of those corporations have a large number of villages in their structure; they also have been successful businesses.

What I have seen in dealing with those corporations that have a large amount of village presence in their corporation is that the corporation provides a vehicle for people to live in the village and still leave the village for a two week-on-two week off type of employment situation and participate in the mainstream of the economy. That type of entre into the villages, that type of employment situation being available within the village I don't think would be possible without the Native regional corporations.

We have experienced and experimented for many years trying to tap into that very work force and we found it very dificult.

I think the Native corporations provide that necessary bridge between the mainstream economy and the actual village life, and I wouldn't know how to do it without them.

Senator MURKOWSKI. Well, as you may know, the suggestions are that the Native stock remain within the Native community, that it be restricted, that it be nontransferrable for an extended period of time. One would wonder what would happen if 1991 came and the stock could be transferable, where it would end up, who would own it, and that would be indeed speculation. But the point I'm exploring here is, we have corporate stock that is so restricted, how do you relate it to value as opposed to your own stock that represents whatever the market and the economic values indicate?

What we're doing here is we're taking a decision made in the seventies and saying all right we're going to restrict it now, and restrict it indefinitely until the corporations decide when they want to transfer it. Then we're saying there's been suggestions that it not be transfered outside the Native community. Then there's suggestions made that in inheritance matters it shouldn't go to anyone who is non-Native. Pretty soon you have got stock that's so restrictive that a shareholder, if he wants to pledge it for a loan probably couldn't do it. So what value does it have other than representing the traditional right to hunt and fish?

Mr. HEINZE. Senator, I think the reason we have testified this morning strongly in favor of Sections 3 and 4 of the amendments is that they represent a fine-tuning of congressional intent to provide settlement and at the same time to utilize in that settlement the classical corporate structure.

The Act as structured right now, in 1991 provides a very sharp interface in going from a 20-year world to build the corporations, to a world that is very wide open.

The amendments in Sections 3 and 4 as I see it provide options. And those options will allow each of the Native corporations to deal with their particular situation.

I think we have to recognize that Congress, in implementing these settlements, set up a broad pattern. It set up the ownership of these corporations. Some of those corporations will choose not to exist in the future; they will choose to go other ways, some will.

I think Congress in this case has to find the right balance of its responsibility on a settlement which was given the opportunity to the corporations to succeed.

And I think simply put, the options that are offered in these amendments are a necessary part of both those duties.

Senator MURKOWSKI. Thank you, Mr. Heinze. We wish you a good day.

Mr. HEINZE. Thank you, Senator.

Senator MURKOWSKI. We will now proceed with panel No. 5. And because of the shortage of seating, I won't call panel 6 up.

Our first witness is Mr. Larry Lau, Resource Manager of Ahtna. Please proceed.

STATEMENT OF LARRY LAU, RESOURCE MANAGER, AHTNA, INC.

Mr. LAU. I'd like to thank you for this opportunity. This is unrehearsed, but I would have to agree with what Harold Heinze just got through saying wholeheartedly.

My perspective is that of a non-Native resource manager, employed by a Native corporation composed of six merged village corporations with the regional corporations.

And so I'm kind of coming from the perspective of an insider, if you will, that works inside the Land Department of one of these corporations. And I'm not used to wearing suits.

I live in the region and I spent half of my week last week running around in gravel pits. So this is the perspective that I bring to you, and I hope it's valuable.

I'm wholeheartedly in support of the bill. The ANCSA Act legislated profit-making corporations. And profit-making corporations are usually established based upon economic opportunity, not law.

These corporations were a unique solution to a very difficult set of circumstances and, as a result, continuance of this unique solution requires unique assistance. And the assistance provided in this bill, particularly additional management options to the shareholders for their stock and land, and additional time to evaluate the ANSCA experiment and make the necessary adjustments.

I could go into some details that I have here—and this has been submitted for the record, I won't. But the land conveyance and management authority process has been extremely complex. It seems to get more complex all the time.

We find ourselves in AHTNA faced with literally hundreds of new resource management questions that have been raised. And these kinds of complexities and questions have very much delayed the profitable management activities of the corporation, although AHTNA has been fortunate enough to remain profitable since inception.

For example, also Sections 14(c) (1) (2) and (4) of the Claims Act required a corporation to do the land conveyance work at our cost that the federal government should have done prior to 1971.

The Claims Act was a Native land settlement. And, therefore, I think the restrictions on stock alienation are very important, especially for regions or areas where people aren't ready for such alienation or don't want it.

The regions are very different from one another in all respects. And I think that the restricted stock ownership is important for use as an option by the various regions, depending upon their particular circumstances.

A lot of shareholders don't feel comfortable or understand the corporate structure. And I think it's important to maintain options for transfer of land to an entity based upon non-transferable membership.

Senator MURKOWSKI. I would ask you to summarize your remaining remarks, Mr. Lau.

Mr. LAU. I have three final comments. I think Section 10 of Senate bill 2065 is very important for protecting those lands that are not placed as risk through development, leasing or exploration.

I think the provisions of the bill are necessary to provide additional stock and land management options in time to shareholders to evaluate ANCSA and select the approaches that are best suited for them.

And I think it's important that this legislation is passed this year so that the corporations know what full bag of alternatives we're dealing with so we can get on with planning for the future. Thank you.

[The prepared statement of Mr. Lau follows:]

Ahtna, Inc.

COPPER CENTER OFFICE
DRAWER G
COPPER CENTER, AK 99573
PHONE: (907) 822-3476

ANCHORAGE OFFICE
2701 FAIRBANKS STREET
ANCHORAGE, AK 99503
PHONE: (907) 274-7662

SENATE HEARING TESTIMONY ON S. 2065
May 27, 1986; Anchorage, Alaska
by
Larry S. Lau
Resource Manager
AHTNA, INC.
Copper Center, Alaska

Thank you very much for this opportunity.

My comments come to you as a non-Native Resource Manager employed by a Native corporation composed of a regional corporation and six village corporations that have merged. I have been working in this arena since 1972. I hope this perspective of a non-Native "insider" working in the Land Department of one of these Alaska Native Claims Settlement Act (ANCSA) corporations is worth your time.

My comments are wholeheartedly in support of this bill for the following reasons:

1. The ANCSA legislated profit-making corporations. Profit-making corporations are established based on economic opportunity, not law. These corporations were a unique solution to a very difficult set of circumstances. As a result, continuance of this unique solution requires the unique assistance this bill provides——particularly, additional management options to the shareholders for their stock and land, and additional time to evaluate this ANCSA experiment and make the necessary adjustments.

2. It is definitely true that corporate structure doesn't lend itself to life in rural Alaska. Operations of these companies are understood by only a few. Changes must be made.

3. The extreme complexity of the land conveyance and management authority process, and hundreds of new resource management questions that it has raised, has long-delayed initiation of profitable management activities on corporation lands. For example, in our region, we received conveyance of certain gravel-rich lands in 1981 that were selected for conveyance in the early 1970's. We were given management authority over State Material Site Grants on those lands in 1984 (The Bureau of Land Management——BLM——managed those grants on our lands until that time.). The State appealed that waiver of authority to us, with a final decision being made in our favor September 10, 1985. Now we finally have management authority over our gravel within those grants (limited authority), but we must give that gravel away to the State, without payment, forever, with no way of recovering our administrative costs of doing so, and without being allowed the Grant Casefile describing the grant history of each particular grant! Can you even imagine that?

Sections 14(c)(1,2,4) of the ANCSA require us to do the land conveyance work that the federal government avoided prior to December 18, 1971, at great expense to us.

Because most of these lands are unsurveyed, and many of them have several conflicting land claims, the title is "clouded". This severly limits their economic utility in many respects.

Since nothing like the ANCSA has ever been attempted before, it takes lots of time to work it through——certainly longer than 20 years. There are literally hundreds of questions that have irreversible consequences that must be evaluated. New issues and questions arise monthly. The financial and time drain these questions pose greatly affects profitability.

Well they Stock
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4. The "Claims Act" was a Native land settlement. Therefore, restrictions on stock alienation are very important——in regions where people aren't ready for such alienation, or don't want it. The various regions in the state are very different from one another——in all respects. This restricted ownership stock is very important to maintain as an option for use by the various regions depending on their particular circumstances, as well as the option to terminate such stock at a later time if they choose.

5. Because so many shareholders don't understand, or "feel comfortable" with the corporate structure, it is important to allow transfer of land to an entity based on non-transferable membership——something that most people (regardless of their cultural background) feel more "at ease with". As testimony to the Alaska Native Review Commission clearly showed, the land is the "blood" of our people. It must be protected and managed by ways we feel "at ease with". Shareholders have now had a few years to observe the corporate approach to managing their lands. Now they are in a better position to choose what form a managing organization should take——and that form may vary from region to region.

6. Section 10 of this bill is very important for protecting those lands not placed "at risk" through development, leasing, or "exploration". It is also important as a means to accommodate a wide variety of shareholder's views in a particular region or corporation by allowing a certain acreage to be set aside with these protections without the exposure of developed lands; that is, legal exposure is limited to "developed" portions.

Again, to summarize, provisions of this bill are necessary to provide additional stock and land management options, and time, to shareholders to evaluate this ANCSA experiment and select the approaches best suited for their individual circumstances.

Thank you for your attention to this matter. I would be happy to provide specific details of daily issues and questions we must deal with should you be interested. Please contact me in the Copper Center Office.

Senator MURKOWSKI. Thank you Mr. Lau.

Agafon Krukoff, President of Aleut Corp. Good morning.

STATEMENT OF AGAFON KRUKOFF, PRESIDENT, ALEUT CORP.

Mr. KRUKOFF. Good morning, Mr. Chairman. Thank you for the opportunity of allowing me to speak.

My name is Agafon Krukoff, President of the Aleut Corp. I'm here to make conscious our support of S. 2065 to amend the Claims Settlement Act. I'm speaking not only on behalf of the regional corporation, but our 13 Aleut Villages.

One comment I wanted to speak to you about this morning, I believe the Chairman clarified what was read in the newspapers this past weekend as to the question of whether the amendments—the process—the question of getting the amendments through Congress this year will actually take place.

I believe you clarified this morning that there is still a strong attempt to get it through this year. And I strongly urge the committee to push for the amendments being pushed this year. We're only five years away from 1991. Most of our corporations, both regional and village, don't have the same kind of sophistication that you would find in the CBS's of the world to push away the Ted Turners as far as corporate take-overs.

In summary, we wholeheartedly support the amendments to the Claims Settlement Act and urge action on the amendments in 1986.

Senator MURKOWSKI. Thank you very much, Agafon.

I might just add a little bit more on the status of the issue of congressional action yet this session. I think you should understand that the Chairman of the subcommittee is Chairman Malcolm Wallop, the Senior Senator from Wyoming. There are numerous prescheduled hearings through the balance of this Congress. I would suggest a great deal would depend on the question specifically of support for this legislation. If it is an issue that's debated extensively, if there is less than unanimity from all Alaskans why, obviously, it would entail extended hearings and extended witness time. And I think it's fair to say that that probably was the observation of Chairman Wallop. After the testimony given in Fairbanks, in all fairness, that was his evaluation.

Now, the reality dicates that we are moving into an election year and there's only so much time left. And as the record is completed we will have a better idea as to whether there is a general concensus or if, indeed, there is a lack of concensus. So my quote was it's going to be nip and tuck, and I think that's an honest assessment.

Mr. KRUKOFF. Given the time that the law is under ANSCA, we have been incorporated since 13 years ago. Our corporation has never been able to have achieved two-thirds quorum that the state requires to take any action to change our articles of incorporation. So you can pretty much rest with the idea that the Aleut Corp. probably will go public in 1991 if nothing happens. I think that's true with a lot of the corporations.

Senator MURKOWSKI. Thank you.

Our next witness is Mr. Don Nielsen, Senior Vice President, Bristol Bay Native Corp., accompanied by Mr. Steve Silver.

Please proceed.

STATEMENT OF DONALD F. NIELSEN, SENIOR VICE PRESIDENT, BRISTOL BAY NATIVE CORP.

Mr. NIELSEN. Mr. Chairman, thank you for this opportunity to testify on behalf of the Bristol Bay Native Corp.

I am Donald F. Nielsen, Senior Vice President. And I have submitted a more complete statement which I ask to be printed in the record, along with the comments I'm making today.

Senator MURKOWSKI. It will be entered into the record as if read. And by weight, this is the heaviest one we've had so far. [Laughter.]

Mr. NIELSEN. I would also like to introduce Steve Silver who is our Washington, DC, counsel, who is with me today to answer any technical questions that you may have.

As an officer and director of a viable Native corporation, I can state firmly that we are for Native corporations. I want to emphasize each word. We are for Native control, land protection and revenue sharing, and we are for the corporate structure.

BBNC supports Senate bill 2065 because it creates the opportunity for continued stock restrictions; it provides land protections, and it permits its shareholders to make the basic choices.

I have mentioned that revenue sharing is important. Sections 7(i) and 7(j) of ANCSA require that revenues from the subsurface and timber resources be shared by the resource owner and other regional corporations which, in turn, share with village corporations and at-large shareholders.

Senate bill 2065, unfortunately, contains a provision, Section 9, which is inconsistent with the revenue sharing. Section 9 would substantially enlarge a village corporation's power to prevent development.

Presently, a village corporation has consent power over subsurface development only if it occurs within the boundaries of a Native village.

Section 9 would substantially increase the scope of village corporations' power. Enlarging it would easily siphon off monies from Section 7(i) sharing. First, because of development which does not recur, reduces the revenues to be shared; second, because village corporations, as they have done with Section 14(f), will extract a price for granted consent. This price will also reduce revenues to be shared under Section 7(i). The economic losers will be at-large shareholders, village corporations which are not located near a valuable subsurface, and all regional corporations.

Bristol Bay Native Corp. agrees with Koniag, Incorporated and Cook Inlet Region, Inc., that Section 9 should be deleted from the legislation.

Senate bill 2065 also contains language in Section (c) which some say favors sovereignty. They use this criticism as a spring-board to argue that that Congress should defeat this legislation entirely or, in the alternative, that Congress should say it extenguished sovereignty in 1971.

Both the Congressional delegation and the State of Alaska have made clear that Senate bill 2065 was to be neutral as to sovereignty. If Section 7(c) is even arguable inconsistent with this position, then let us now redraft it and move on.

Senator **Murkowski**. I would ask that you summarize your remaining remarks.

Mr. **Nielsen**. The phrase in the amendments of this Act—the phrase "any amendment to this Act enacted after January 1, 1986" can be substituted for "this Act" in Section 7(c).

More accommodations than merely allows those who objected to the original settlement and its benefits to rewrite history. That is precisely what both the delegation and the State of Alaska oppose. The legislation should be sovereignty neutral.

In conclusion, I want to thank Senators Stevens and Murkowski for supporting Section 7(b) in the bill. We believe that this section will be of great benefit to the self-determination by the peoples of Bristol Bay. Thank you.

[The prepared statement of Mr. Nielsen follows:]

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX [illegible] / ANCHORAGE, ALASKA [illegible] / (907) 279-[illegible]
TELECOPY (907) 279-[illegible]

TESTIMONY ON S. 2065
Before the
United States Senate
Energy and Natural Resources Subcommittee on
Public Lands, Reserved Water and Resource Conservation

May 27, 1986

By
Donald F. Nielsen, Senior Vice President
Bristol Bay Native Corporation

As an officer and director of a viable Native corporation, I can state firmly that we are FOR Native corporations. And I want to emphasize each word. We are for Native control, land protections and revenue sharing, and we are for the corporate structure.

Native control, land protections and revenue sharing. Each of these was, to some extent, provided in the initial Act.

Native control was ensured through ANCSA by stock restrictions. Until 1991, no voluntary transfers of stock are allowed during a shareholder's lifetime. A shareholder can will stock to anyone, although non-Native heirs receive non-voting stock.

Equal distribution of power was encouraged through ANCSA's stock plan. All Natives were issued the same number of shares. Having the shares spread out equally means that power is shared equally, and there is the opportunity for shareholder participation in corporate governance. Each annual meeting becomes a plebiscite on management's performance and direction.

ANCSA's land protections include a 20-year moratorium on real property taxes. Later, ANILCA strengthened land protections through the Land Bank. It provided Native land an exemption from real property taxes so long as the land remains undeveloped. In other words, subsistence lands would not be taxed. The Land Bank also created protection from squatters' rights, and freedom from seizure for payment of certain debts. These are all important protections for Native land.

Unfortunately, based upon BBNC's experience, field personnel in the Interior Department are not yet prepared to implement the Land Bank provisions of ANILCA. We spent a year negotiating a standard form Land Bank agreement with the Secretary's office and reached a mutually satisfactory understanding as to its terms. But, because of inaction in the field, a single Land Bank agreement, at best, has been signed to date. That is why section 10 of S. 2065, providing for the automatic extension of Land Bank protections, is so important.

Revenue sharing is a distinctive feature of ANCSA. Sections 7(i) and 7(j) require that revenues from subsurface and timber resources be shared by the resource's owner with other regional corporations, which in turn share with village corporations and at-large shareholders.

These provisions embody the idea the ANCSA is a settlement for ALL Alaska Natives, and that Native resources should be distributed fairly among all Native peoples.

As I have said, we are for Native control, land protections, and revenue sharing. Equally important, we are for the corporate structure.

The corporate form was chosen by Congress as the initial settlement mechanism, and it was supported by the Native community to avoid federal controls.

BBNC is in favor of retaining the corporate structure because of the important shareholder protections it provides. These protections include:

1. The right to be informed through such important publications as the annual report and proxy statements.

2. The right to be treated fairly, which includes provision for dissenters' rights on major decisions.

3. The right to demand that directors fulfill their fiduciary duties, even to the extent of filing a derivative lawsuit.

4. The right to participate in corporate governance through the election of directors, voting on proposals, and inspection of records.

When we list these rights, they seem cold and dull -- mere legal abstractions that mean little to people whose day-to-day reality is focused on the fisheries of Bristol Bay. But without these rights, our peoples would be vulnerable to the cold winds of abuse.

Although ANCSA contained many strengths, it also contained what now appears to be a fatal flaw. It did not allow stock restrictions and Native control to continue beyond 1991. Only Congress can correct this flaw. Shareholder action by itself cannot restrict stock because the courts would not honor it. Therefore, we need your continuing participation to preserve Native control and lands.

As I have said, BBNC is for "Native" and for "corporation." Our stance is consistent with our shareholders' views as expressed in our recent professional survey.

1. 63 percent of our shareholders want restricted stock.
2. 75 percent of our shareholders are against changing to a membership organization, or to any other organization which would lessen shareholder protections.
3. 57 percent of our shareholders are against letting new Natives into the corporation for no consideration.

These survey results mean BBNC can support S. 2065 because it creates the opportunity for continued stock restrictions, it acknowledges the corporate structure and dissenters' rights, and it permits shareholders to make basic choices.

In conclusion, I want to thank Senators Stevens and Murkowski for supporting Section 7b in the bill. We believe that this section will be of great benefit to the peoples of Bristol Bay.

Section 7b was submitted by BBNC in direct response to the results of its shareholder survey. An overwhelming majority of our shareholders said they wanted to be the ones to make 1991 choices, not AFN or Congress. Clearly, our shareholders' goal is self-determination. Therefore, the Bristol Bay section includes three key points to ensure self-determination by shareholders.

First, all major corporate issues, including stock restrictions, must be decided by a shareholder vote.

Second, dissenters' rights are granted. These rights ensure that the will of the majority is carries out, yet permit those few shareholders who want to leave to do so.

Third, all major corporate issues require the same number of votes to pass. Of course, any corporation may increase that number for a particular issue if its shareholders so desire. This policy provides meaningful self-determination and the flexibility to fit each group's needs.

These provisions were given full support by the 1986 Bristol Bay Native Association convention. Our peoples recognize that the right to vote, the right to dissent, and the power to set our own standards guarantee that we will make our own 1991 choices.

BRISTOL BAY NATIVE CONVENTION
Resolution 86-25

WHEREAS: the 1991 legislative package has been introduced in Congress; and

WHEREAS: the 1991 package provides many alternatives for stock restrictions; and

WHEREAS: there is the Bristol Bay Native Alternative for regional and village corporations within the Bristol Bay Region, requiring a shareholder vote and dissenters rights; and

WHEREAS: there is the AFN alternative for regional and village corporations, permitting a shareholder vote and optional dissenters rights; and

WHEREAS: the 1991 package may be changed as it moved through the legislative process.

NOW THEREFORE BE IT RESOLVED that the delegates to the 1986 Bristol Bay Native Convention assembled will not support changes to the 1991 legislation unless they (1) preserve the Bristol Bay alternative for, at least, all corporations in the Bristol Bay region,and (2) preserve within the AFN alternative optional dissenters' rights and role for shareholders on 1991 decisions.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the resolution adopted by the delegates to the 1986 Bristol Bay Native Convention, February 23, 24, 25, & 26, Dillingham, Alaska, at which a quorum was present.

WITNESS My hand and seal this 26th day of February, 1986.

Chairman, Bristol Bay Native Convention

WITNESSED:

Chairperson, Resolutions Committee

PROPOSED CHANGES TO S. 2065

Bristol Bay Native Corporation endorses the following changes to S. 2065:

1. Section 7b(b)(1) - On page 27, line 5, after "alienation," insert "or the transfer of assets pursuant to Section 7a,".

   On page 27, line 5, after "the extension" insert "or transfer".

2. Section 7b(b)(3) - On page 28, line 19, after "to extend restrictions" insert "or to transfer assets pursuant to Section 7a".

3. Section 9 - Delete.

4. Section 10 - On page 32, beginning line 17, substitute the following for (C) and (D).

   "(C) judgment resulting from any claim based upon or arising under Title 11 of the United States Code relating to bankruptcy (or any successor statute), other insolvency or moratorium laws, or other laws affecting creditors' rights generally; and

   (D) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native corporation or Native group, any officer, director, or stockholder of any such corporation or group, and any trustee, receiver or custodian acting on behalf of such corporation or group."

   Renumber paragraph (2) in ANCSA as (3) and add a new paragraph (2) as follows:

   "(2) No trustee, receiver or custodian vested under applicable Federal or State law with any right, title or interest of any Native corporation or Native group may assign or lease to a third party any land subject to paragraph (1) which has not theretofore been developed or leased, or commence development or use of the land other than for purposes of exploration, and such trustee, receiver or custodian may not convey any right, title or interest in land and interests therein protected under paragraph (1) to any third party."

   BBNC opposes the following change to S. 2065.

1. Section 4(6)(A)(ii) - The AFN 1991 Steering Committee proposes that the statutory minimum vote on stock restrictions be a majority of the outstanding shares of Native stock entitled to vote, while the minimum vote

on any other critical issue, such as transferring all corporate assets without consideration, would be only a majority of a 51% quorum. BBNC objects to this change.

Standard corporate procedure provides the same minimum vote for all fundamental changes in the corporation's structure, such as the issuance of a new class of stock, merger or the transfer of substantially all assets. A corporation, of course, may set for itself a higher standard of passage on a particular issue, but only if that higher standard is voted upon and agreed to by the corporation's own shareholders. The AFN amendment thus reduces corporate flexibility and, in particular, shareholder choice. Moreover, no reason exists for the statute to require, as contrasted with the shareholders of each Native corporation, a different standard of passage on equally significant questions.

BBNC requests, therefore, that the latest minimum voting proposal approved by the AFN 1991 Steering Committee by rejected. To do so is consistent with the resolutions passed at the AFN Convention.

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602
TELECOPY (907) 276-3924

TESTIMONY ON S. 2065

before the

Senate Energy and Natural Resources Committee

May 27, 1986

by

Donald F. Nielsen, Senior Vice President

Bristol Bay Native Corporation

Good Morning. Thank you for this opportunity to testify on behalf of Bristol Bay Native Corporation. I am Donald F. Nielsen, Senior Vice President of BBNC.

Today, I'll describe

I. Who We Are: as a people and as a corporation
II. ANCSA: Its History
III. ANCSA: the 1991 deadline
IV. BBNC's careful approach to 1991
V. Legislation: BBNC's key concerns
VI. The Future: Congress' important role in creating more opportunities for Native people in the future.

I. Who We Are

The Bristol Bay Region is located about 150 miles southwest of Anchorage, in one of the most productive fishing areas of the world. Our peoples are fishermen. They fish either commercially or for subsistence.

Sixty percent of our 5300 shareholders live in the 29 villages in the Region. Many others return home for fishing season or retirement. The peoples of the Bristol Bay Region are Aleut, Eskimo, or Athabascan.

Under the Alaska Native Claims Settlement Act, BBNC was entitled to $32.7 million and 3 million acres of subsurface estate. Here is what we have done with them. We have invested in the Anchorage Westward Hilton, a first-class Anchorage hotel; two Seattle-based food processors, "Sunny Jim" jams, jellies, syrups, and peanut butter, and Tyrrell's dry and canned pet food; United Bank Alaska, an Alaska bank started by Native corporations; and finally, drill rigs and vehicles that provide support to the oil industry. Given the opportunity presented by our basic land entitlement, BBNC has contracted with Resource Associates of Alaska to explore for hardrock minerals.

BBNC is one of the most financially viable and successful of the 13 Regional corporations. BBNC remains one of the top four in overall performance and positive retained earnings. Our shareholders have received over $4.3 million in dividends.

II. ANCSA: Its History

For the next few minutes, I'd like to talk about the history of the 1971 Alaska Native Claims Settlement Act. This sets the stage for today's concerns.

In February 1968, three years before the passage of ANCSA, Native people from around the state testified at hearings in Anchorage before the Committee on Interior and Insular Affairs. The quotes reflect widespread desires among the Native community.

Ewen Moses Laumoff from Kodiak said, "They now shoot game for fun. No more game pretty soon. No more fish. Land not worth much without game and fish; land 'aahsetuck.' All used up. When we have land it is good. It is all we got."

Emil Notti, then President of the Alaska Federation of Natives, talked about the encroachment of modern civilization on the old way of life, and said, "The Natives need land to make the transition from a subsistence economy to a wage economy."

State Senator John Sackett testified, "We are ready to decide what we as Native Alaskans want, and we are capable of handling our problems."

And Hugh Nicholls of the Arctic Slope Native Association touched on a key point when he stated, "We feel the title to the land--and the wealth that it holds--is the key to our future, economically, educationally, and healthwise."

The important point of bringing up these quotes today is to show that Congress responded to what the Native people said they wanted.

- ANCSA gave Alaska Natives something extremely valuable: legal title to the land.
- "Legal title" means we OWN the land, and others cannot just take it away from us.

- "Legal title" means we have the right to use the land, and prevent others from using it.
- "Legal title" is important because it is recognized by the public and by the courts.

LEGAL TITLE IS THE FIRST STEP IN KEEPING LAND FOREVER.

In settling Native land claims, Congress also wanted to respond to the Native community's expressed desire for economic opportunity. Congress wanted to achieve opportunity for Natives, but not through the reservation system. So Congress chose a recognized economic and legal structure--the profit corporation--to protect Native land and opportunity.

The advantages of using a recognized system include:

- the rules are clear for how to organize and operate it
- the law is clear on what it can and cannot do
- there are built-in shareholder protections
- shareholders' ownership and participation continue regardless of where the shareholder lives
- it goes on even though original shareholders die
- it can be adjusted to fit many economic goals.

At the same time, Congress added to the corporate structure so it would fit the special needs of Alaska Natives. Congress made ANCSA corporations unique by:

- putting restrictions on the stock
- allowing only Natives to vote
- creating land protections under the Land Bank
- allowing special corporate income tax advantages.

At first, the profit corporation form may seem difficult to understand and hard to operate. But, non-profits, cooperatives and IRA forms are just as hard to manage.

What are the advantages of a profit corporation? Both Federal and state laws are very clear about the rights of shareholders. "Rights of shareholders" is just another way of saying "shareholder protections."

A. The Right to be Informed

Under corporate law, shareholders must be kept informed of certain things by the management.

1. It is the shareholders' right to receive an **ANNUAL REPORT.** Both state and Federal law require public corporations to produce an annual report. At least once a year the shareholders should get an audited record of the corporation's financial performance and status.

   The annual report must contain audited numbers and not just a self-serving description by management of what is being done. Independent public accountants have checked to make sure economic events are properly recorded and reported. This avoids management manipulating the numbers to make itself look better.
2. It is the shareholders' right to be protected by **PROXY RULES.** Like annual reports, proxy rules are laid out in both Federal and state law. What's important about proxy rules? Persons soliciting proxies, whether management or a group of shareholders:
   - are required to give full information about how they intend to use the proxies at a shareholders' meeting, and who is paying for the proxy solicitation.

- are required to provide full information about each candidate if proxies are for a slate of directors.
- are required to provide full information about each issue if the proxies are for issues concerning the corporation. This information must include: 1) what the proposal is; and 2) what the consequences are, both good and bad.

The proxy statement cannot contain false or misleading information, nor can important facts be omitted.

In summary, the law on proxy rules protects shareholders from being lied to on important matters.

B. The Right To Be Treated Fairly

Corporate law is very clear about making sure that all shareholders are **TREATED FAIRLY.**

1. Shareholders' power is based on their stock ownership, not on personalities.
2. Shareholders have dissenters' rights on major issues. This means that shareholders who hold both majority AND minority opinions on an issue are treated fairly. The decision of the majority will be carried out.
3. At the same time, the rights of the minority will not be abused or ignored.

C. The Right to Require the Board of Directors to Live Up to its "Fiduciary Duties"

This legal term basically means: When a director takes care of other people's money and property, he or she is governed by certain rules. These rules require that directors act in certain ways. A director must:

1. **BE LOYAL** to the corporation. The law does not allow directors to favor another interest over that of the corporation. In other words, directors may not take part in decisions which would benefit themselves personally. Directors with a conflict of interest may not vote on those matters.

   The law requires directors to keep certain information confidential. They must not give or sell information which is of value to the corporation.

2. Act as a **"PRUDENT" PERSON**. This means a director has the legal responsibility to make **INFORMED** decisions. This means that he or she must do the necessary homework and understand the issues before voting.

3. Act within **LEGAL AUTHORITY**. A Board of Directors must obey the law: state and Federal laws, as well as the corporation's own Articles of Incorporation and By-Laws.

   In addition, no director has the power to act alone. Corporate decisions may only be made:

   - by the Board
   - acting at a meeting, for which proper notice was given
   - with a quorum present.

4. Act in the best interest of the **WHOLE** corporation. Directors are legally responsible to act in ways that will benefit **ALL THE SHAREHOLDERS**, not just ones from a particular area.

D. The Right To Participate

As owners of the corporation, shareholders have six major ways to be involved. They have the right to:

1. Participate in the **ELECTION AND REMOVAL OF DIRECTORS**. This means that shareholders have a say in who runs the corporation and sets its policies.
2. **VOTE ON PROPOSALS** at shareholder meetings.

    The shareholders are the only ones who can approve amendments to the Articles of Incorporation, mergers or consolidations, transfers of all assets, and other items. They can also make recommendations to the Board on other issues.
3. Receive **NOTICE OF SHAREHOLDERS' MEETINGS**. The Board of Directors is not allowed to inform only some of the shareholders of a meeting. Every shareholder must be notified.
4. **PETITION** for special shareholders' meetings. If shareholders want an issue discussed, they have the right to collect enough signatures to require management to hold a meeting.
5. **INSPECT RECORDS**. Shareholders can demand to inspect the books and records of their corporation. Those records must be made available if the request is in good faith and for a proper purpose.

    This right gives shareholders access to the background and history behind the Annual Report.
6. File a **DERIVATIVE LAWSUIT**. If the corporation is entitled to some benefit or money which the Board of Directors is not enforcing, shareholders can file a lawsuit. If the shareholders win, the benefit or payment would go to the corporation. This way, not just the shareholders who filed the lawsuit, but ALL shareholders would benefit.

We believe that corporate law offers Natives far greater protections than are available with IRAs. But the law, standing alone, is not enough. It needs people to make it truly effective.

Traditional Native society is a cooperative one, based on trust, subsistence, and barter. While Native people have certainly been exposed to Western ways for decades, many of our traditional ways remained in 1971 (and still do today).

So, the system of corporations (in fact, any business system) requires a completely different way of thinking:

- it requires competition
- it requires using and understanding a cash-based economy
- it requires doing business with strangers
- it requires protecting ourselves against dishonest or incompetent people
- it requires learning new skills in order to keep control of what we have.

In looking at how ANCSA set up our corporations, we realize that we as shareholders and as managers have a great deal of responsibility.

Management: These people must respect and act within the law to protect the rights of shareholders and manage their corporations effectively and honestly.

Shareholders: These people must stay informed about their corporations, they must participate, and they must require management to live up to its responsibilities.

Only when people observe and use the law can ANCSA give Natives the maximum protection and opportunity.

III. ANCSA: 1991

If all this has been set up and operating since the early 1970s, why are we bringing up ANCSA again today? Because the original bill contains a time-bomb...a deadline when the rules under which our corporations have been operating will change.

The year 1991, and all that it means for us, comes from a phrase in the Alaska Native Claims Settlement Act. This phrase says twenty years from the Act's passage -- December 17, 1991 -- new, unrestricted stock will be issued.

Native corporation stock is presently "restricted". "Restricted" means that until 1991, a shareholder cannot sell his/her stock, cannot transfer it, and cannot use it to borrow money.

Stock can only change hands when a shareholder dies, or by court action in a divorce or child support case.

If the law does not change, stock will be cancelled and new, unrestricted certificates issued in 1991. This unrestricted stock will be the same as stock of any American corporation: it can be sold, transferred, or used as collateral for a loan.

Of course, this means that Natives could lose control of Native corporations and land.

Historically, when Indian property has become unrestricted, Indian peoples have often sold their lands. Certainly the lure of immediate cash is particularly strong for people who know poverty. For example, Bristol Bay peoples have sold allotments and limited entry permits because of economic necessity. Also, Natives often sell for far too little because they may not know the true value of their property.

As concern grew over Native control, "1991" expanded. "1991" now refers to three main issues: stock, land protection and alternative organizations. These issues can be broken into several different parts:

- Stock: restrictions, dissenters' rights and new Natives
- Land Protection: Land Bank, shareholder consent
- Alternative Organizations: what they offer and what they do not offer

Each of these main issues--stock, land protection and alternative organizations--is FUNDAMENTALLY a question of personal values. But, like any important matter, these 1991 issues exist in a larger context. The value choices of each issue also carry economic consequences. So we must consider each issue from both the value and economic sides in order to make sound choices for ourselves and our future.

Let's examine the first two issues--stock and land protection--in terms of their economic consequences.

Stock

1. Restricted or Unrestricted Stock?

First, from the corporation's point of view:

If we keep the stock RESTRICTED, the corporations would have less ability to raise money.

If we keep the stock UNRESTRICTED, it would cost a great deal to fight a takeover -- a fight Natives could lose.

Some Native corporations are natural targets for takeovers. The following are some characteristics which attract raiders: inexperienced management, widespread stock ownership, high liquidity value but low market value per share, low debt equity ratio and potential turnaround from depressed earnings.

> Further, corporate anti-takeover devices are not adequate protection. A study by Goldman Sachs & Company considered 71 tender offers (all of $10 million or more) commenced from 1976 to 1982. Only 12 targets remained independent. The raider eventually succeeded in 28 cases, all but two involving later higher bids after the original offer. In 31 cases, the target was acquired by a "white knight."

Now, from the individual shareholder's point of view:

- If we keep the stock RESTRICTED, a shareholder's stock will have a lower economic value.
- If we have the stock UNRESTRICTED, a shareholder's stock will have a greater economic value.

2. Keep or Eliminate Dissenters' Rights?

If dissenters' rights are ELIMINATED, the courts may not allow restrictions on stock to continue. And if we do not have restricted stock, we will not have Native control.

If dissenters' rights are KEPT, there will need to be corporate planning and sufficient reserves to buy back stock from those who want to go their own way.

3. Let in New Natives Free?

If new Natives are ALLOWED, each shareholder will receive less and less, resulting in many dissatisfied shareholders. It is hard to succeed as a corporation when a great number of the shareholders are dissatisfied.

If new Natives are NOT ALLOWED, each share retains the same percentage of ownership it now has.

Land Protection

Use or Not Use the Land Bank?

At this time, there is the option of using the Land Bank (Sec. 907, ANILCA). It provides that in return for compatible management and non-development, Native lands will be granted exemption from real property taxes, and protection from squatters and judicial execution.

If we USE the Land Bank, it will protect Native land from taxes, squatters and certain debts; but what we put in can't be developed to make money.

If we do NOT USE the Land Bank, we can develop the land to make money, but development requires more management costs plus dealing with taxes, squatters and debts.

So, in looking at ANCSA in light of 1991, we see there are three main issues: stock, land protection and alternative organizations. While it is clear these are basically questions of value, it is also important for Natives to consider the economic consequences of our choices.

And making sound and responsible choices for 1991 requires us to plan ahead.

IV. BBNC's Approach to 1991

In 1983, Bristol Bay Native Corporation began formal planning for 1991. Before 1983, we were planning informally and we were listening. Many people wanted to talk about 1991, and Board members and officers listened to BBNC shareholders expressing their concerns and hopes. Then we developed two lines of approach.

BBNC would **CHOOSE FOR ITSELF** the best direction to take on 1991 issues. Regardless of what others would do, we would develop an approach based on where our shareholders wanted to go. Also, we would analyze possible ways to reach our shareholders' goals from legal, economic, and political standpoints. And we would evaluate what the consequences of any legislation would be for BBNC and our shareholders.

BBNC would **WORK TOGETHER** with other groups also preparing for 1991. We would support any sound effort that would allow BBNC shareholders to choose their own way.

Once we picked out our lines of approach, we then decided on the steps we would have to take to carry them out. At each step, we have reported back to our shareholders to keep them fully informed and to get their comments.

A. To allow shareholders to **CHOOSE FOR THEMSELVES**, we decided on the following steps:

   1. Find out what our shareholders want. We took the lead among Regional corporations by going directly to our shareholders. We conducted a professionally- administered shareholder survey in the fall of 1984. And we reported back to our shareholders on the survey results. I'll talk more about these survey results in a moment.

2. We looked at what would be possible. This step is critically important. We could put a lot of effort into deciding what we want with regard to 1991 issues. BUT UNLESS WE KNOW WHAT IS POSSIBLE LEGALLY, ECONOMICALLY AND POLITICALLY, WE WOULD BE WASTING OUR TIME.

We have to operate within the law. We are part of the economic system of the state and country. And, ultimately, the Federal government will have to approve any changes to ANCSA. We felt it would be irresponsible to tell our shareholders that we do not have to pay attention to the Constitution, economics or politics. It would be unrealistic to move ahead without taking this step.

BBNC analyzed the best legal approach to get what our shareholders want. BBNC got the best advice possible from experts in both Indian and corporate law, in Alaska and Washington, D.C. We wanted to find an approach that would help our shareholders get what they want, not harm them in any way, and stand up under court challenge.

BBNC also analyzed the best economic approach to what the shareholders want. We wanted to make sure any course of action would help the economic future of our corporations.

BBNC also checked with the Federal government to see what would be acceptable. We checked with the Alaska Congressional delegation and the Department of Interior. We found that Congress and Interior officials are sensitive to Native concerns. They expressed support for our desire for continued Native control and land protection.

At the same time, Federal officials have some concerns of their own:

- they are not willing for government to pay more money, either by appropriation or by claims against the United States
- they are not willing to lose money by changing the present income tax laws
- they want to preserve the structure of the original settlement
- they want any changes to be fair to all shareholders.

3. We wrote a draft of legislation that met all BBNC's criteria:
   - it would accomplish what our shareholders want
   - it is legally sound
   - it is economically sound
   - it is politically sound.

And we reported back to our shareholders.

B. To work together with other organizations on 1991, we took the following steps.

1. We took part in AFN's intensive management meetings on 1991. These retreats, held around Alaska, brought together the management of Native corporations for 1991 discussion. (Don Nielsen invited all Bristol Bay village representatives to attend a meeting in Dillingham and fourteen took advantage of the opportunity to gain first-hand knowledge of the 1991 discussion.)

2. We critiqued AFN's recommendations on 1991 prior to the Special Convention. We wanted to be sure that any recommendations to Congress fit BBNC's criteria for what our shareholders wanted, and were sound legally, economically and politically.
3. We met with officers and directors of village corporations to go over AFN's proposals, explain our concerns, and get their input. We met with shareholders and talked with other corporations' management to share our ideas and direction.
4. We participated in the Special Convention. Since then, we have worked with AFN on the legal level and on the political level to make the draft legislation do what our shareholders want, and be legally and politically sound.

Again, we kept our shareholders informed.

5. And, finally, BBNC is answering numerous requests for material on 1991. The Alaska Native News Magazine has just concluded a four-part series on BBNC's approach to 1991. Along with a profile of the Region and photos of our shareholders, the magazine has reprinted a number of articles directly from BBNC's 1991 newsletters. Other corporations, organizations and individuals have wanted to know more about BBNC's approach. We have given our information and views to the media and will continue to share our ideas on 1991 with everyone involved.

That covers BBNC's overall approach to 1991.

Now for the specifics of our survey: why we chose to survey, the validity of the results, and what the results are.

BBNC carefully considered the alternatives before choosing the survey form. Our first choice would have been to talk personally at length with each shareholder. But time and money would not allow that. We have, of course, talked with hundreds of our shareholders over the past several years, and will continue to do so at every opportunity.

The survey emerged as the soundest choice for two main reasons:

- Every shareholder would have the opportunity to participate regardless of where they live...regardless of whether they feel comfortable speaking in public.
- A professional survey would provide a statistically-reliable sample of BBNC's peoples and their views, rather than relying on self-appointed spokesmen.

Dittman Research was chosen to write, give and analyze the survey. Dittman is an independent Alaska research firm with 15 years experience in the field, and a track record of accurate results. The company has a reputation for integrity, objectivity and technical skill.

More than 1100 BBNC shareholders, or 26%, responded to the mailed-out survey. That is a very high rate of participation, according to Dittman Research.

More shareholders participated in BBNC's survey than took part in AFN's meetings, or in the Department of Interior's samplings. The only comparable number of participants was in the Berger Commission hearings, but there is no way to check on whether these spokesmen reflected the feelings of Bristol Bay peoples as a whole.

The results of the survey show us our shareholders' values. Our peoples' values form a strong foundation. This is the base on which we are building BBNC's 1991 work.

- 63% of BBNC shareholders want to keep stock restricted.
- 66% want continued Native control of corporations.
- 57% are against letting new Natives into the corporation for no consideration.
- 83% favor balance in land use: developing part of it and keeping part of it for subsistence.
- 76% are against trading their stock for mere membership in another organization.
- 75% are against any organization which would lessen current shareholder protections.
- 69% want decisions on 1991 to be made by themselves at a shareholders' meeting.

Besides five pages of survey questions, shareholders were asked to write in their comments. The following are samples of our shareholders' opinions.

. . .

> I would very much like to convince the Native Corporation stockholders that when 1991 comes they should keep in mind what they will be losing if they sell their stock.

. . .

> I don't want anyone else to own stock in BBNC except Natives. I sure hope something can be worked out before 1991. The Native Corporation is the only thing Natives can really call their own and I hope it stays that way.

. . .

> People who own shares should be able to sell shares only back to the Corporation and not be able to sell to whites. The Corporation should have a set price in 1991 to buy all shares back from the people who want to sell.

. . .

> Leave it as it is. What is wrong with being possibly taken over by a giant Corporation? My stock could triple in value.

. . .

When your stock is restricted it doesn't mean much to you. You can't do anything with it so what good is restricted stock?

. . .

I would like to know when it is possible to sell some of my stock. I am interested in buying a house and a car. Also, I would like to start a college fund.

. . .

I believe in December 1991 I will have the right to do whatever I feel like with my own shares--I don't mean I will ever run and sell my shares.

. . .

Sell the land now--I need money.

. . .

I feel that keeping our land is very important. I think it is okay to develop some of it but not a lot and it should never be sold. When we lose our land what will we have left?

. . .

Natives born to shareholders after 1971 should not become shareholders in their own right. Each shareholder would then have a continually reducing piece of property. A will or trust can be used to pass the ownership of one's stock to the surviving heirs, thus preserving the original value of the shareholders equity.

. . .

Be careful what you decide--there are a lot of us who depend on your decisions. Have a nice day.

V. Legislation

This brings us to the primary reason we're here today: legislation to preserve Native control and Native lands. Legislation is needed because of ANCSA's original language...language that would lift stock restrictions in 1991.

As I mentioned earlier, BBNC started with the results of the survey. Second, using both in-house and outside expertise, we analyzed the issues of 1991 legally, economically and politically. From these, then, came the criteria for legislation that BBNC could support.

Again, BBNC's survey showed that 69% of our shareholders want 1991 choices to be made by shareholders at a shareholders' meeting. Not only is this what our shareholders WANT--giving shareholders choice is what's FAIR.

Shareholder choice is important because these are value questions that only our peoples can answer for themselves. This choice must be true choice. It must be built into the law so that each board is required to give shareholders a choice on these important issues. Choosing for ourselves empowers our peoples to decide their own directions, their own futures.

Therefore, BBNC can support only legislation that gives shareholders choice.

The survey showed that 63% of our shareholders want restricted stock--while 36% want it unrestricted. This means BBNC must have a legal way--through legislation--for our shareholders to continue restrictions to preserve Native control. AND--AT THE SAME TIME--this legislation must include a way to allow those who want to go their own way to do so. The usual way to accomplish this is through dissenters' rights.

Above all, it is an issue of fairness. In 1991, the rules of ANCSA will change. As we help shape these new rules, BBNC's directors must serve ALL our shareholders. Dissenters' rights would protect the majority, while creating a procedure to allow the minority to go another way.

It's well understood that buying back dissenters' stock costs money. The amount it costs depends on 1) the number of shareholders who want out, and 2) the value of their stock.

However, the elimination of dissenters' rights creates the unacceptable risk that stock restrictions would be declared by the courts to be unconstitutional. Unrestricted stock means that Native control would be lost. Therefore, buying out dissenters is a necessary price to pay for continued Native control.

BBNC believes the soundest legal approach is to have dissenters' rights... plus dissenters' rights are fair to both the majority and the minority. Therefore, BBNC can support only legislation that includes dissenters' rights.

The survey showed that 57% of our shareholders are against letting new Natives into the corporation. Because our shareholders are opposed, BBNC can support only legislation that allows choice by each corporation on this matter.

The survey results showed that 75% of our shareholders are against changing to a membership organization, or to any organization which would lessen shareholder protections. Therefore, BBNC can support only legislation that allows choice by each corporation on this matter.

VI. The Future

Today, as in 1971, Congress and Native leaders share a common goal. As stated in the beginning of the Claims Act, this goal is a "just and fair settlement"...a settlement which conforms to "the real economic and social needs of Alaska Natives"...one which allows "maximum participation by Natives in the decisions affecting their rights and property."

Though the goal is a common one, we each have different roles to play in reaching the goal. Congress has the responsibility to put effective laws on the books. Native leaders have the responsibility to live up to those laws so that Native peoples will experience the full benefits of the Settlement.

Today, BBNC seeks your continued participation in reaching that goal. ANCSA did establish a framework for us. However, it carries what now appears to be a fatal flaw: that of not allowing stock restrictions to continue after 1991. And, as I've stated before, restricted stock is essential to Native control and land protection.

Only Congress can correct this flaw...and give Natives the choice of legally-restricted stock. Shareholder action by itself cannot restrict stock because the courts would not honor it. Therefore, we need your continuing participation to preserve Native control. ANCSA must be amended. And it must be amended in a way to withstand legal challenge. An unconstitutional law does no service to the Native peoples in the long run.

As we look ahead together, 1991 appears as a time of danger and opportunity.

THE DANGER COMES BECAUSE NATIVE CONTROL AND NATIVE LAND ARE AT RISK.

- There is danger if legally risky legislation is passed.
- There is danger if current shareholder protections are weakened or abandoned.
- There is danger if Native peoples think we don't have to work to keep what we have.

THE OPPORTUNITY COMES BECAUSE NATIVE CONTROL AND LAND PROTECTION CAN BE SECURED.

- There is opportunity if we choose a plan that is flexible, fair and balanced.
- There is opportunity if we create a legally-sound solution.
- There is opportunity if Native leaders and peoples live up to the law, working responsibly and with vision.

So, while this is a time of danger for us, it is also a time of opportunity. We--Congress and Native leaders--are again partners as we look toward the future. We must recognize the dangers--and choose instead the opportunities. The way to do this is through sound legislation to allow continued stock restrictions...to protect Native control and lands. Such legislation will create opportunity for future generations to enjoy the benefits and rewards of a fair and just settlement.

Thank you.

Senator MURKOWSKI. Thank you very much, Mr. Nielsen.

Our next witness will be Mr. John Monfor, Vice President, Cook Inlet Region.

STATEMENT OF JOHN MONFOR, VICE PRESIDENT, COOK INLET REGION, INC.

Mr. MONFOR. Thank you, Mr. Chairman. I would like to summarize the written testimony that has been submitted.

Senator MURKOWSKI. Your entire statement will be entered into the record.

Mr. MONFOR. Thank you, Mr. Chairman, for this opportunity to testify before you today.

My name is John Monfor, and I'm the Vice President of Cook Inlet Region, one of the 12 Alaska-based regional corporations under the Alaska Claims Settlement Act.

Since 1971, the organization of Alaska Native entities around the corporate model has caused a rethinking of organizational forum, the criteria to determine their appropriateness, and even the purposes of the American Native communities.

We now have an opportunity to look back on what we have learned and what modifications, if any, should be made within the broad outlines of the 1971 Settlement.

There has been over the past several years a remarkable debate and discussions within the Native community of Alaska; a debate and discussion which has included close ties with our congressional delegation.

As a result of that debate we have determined mutually that there has to be self-clarity represented among the various Alaska Native communities should be reflected in the architecture of any change which may be made to the 1971 statutes.

There's little question that for many villages in some regions consistent adherence to a corporate form has not provided the best way to reach communal and federal goals.

In these communities, the thrust into the business environment was too sudden; there was not the management, nor the resources to cope with so sharp a break with the old ways.

In some instances, the experience of the last 15 years has taught us that there must be opportunities to strengthen the more judicial ways and to temper the implementation of the settlement with more communal traditions than are available under the strict corporate form.

Cook Inlet Region has undergone a careful study to determine the choices that the shareholders want. What we have determined is that there is a need to allow more flexibility so that shareholders can realize the value of a portion of their equity interest in the corporation without triggering abrupt loss of control as is possible under the current situation.

The proposed legislation provides for better ways of delineating between the varied interests of our shareholders.

CIRI strongly supports the aims of the legislation. There is one provision of the bill, however, that we cannot endorse. Section 9 of the legislation, which would authorize the pass-through of title to the subsurface of village entities, is a provision we would ask you to carefully consider. While the legislation should provide flexibility for business entities that Congress made as the instruments of the ANCSA settlement, it must not upset the delicate sharing of resource revenues among the regions and villages.

After long and devisive and costly litigation, the issues left unclarified in Section 7(i) of ANCSA were resolved in an elaborate and complex agreement known as the 7(i) Settlement Agreement.

We are confident that with conserted effort on the part of all regional and village corporations, the few issues still under discussion will swiftly be resolved. Thank you.

[The prepared statement of Mr. Monfor follows:]

Testimony of
John Monfor, Vice President
Cook Inlet Region, Inc.
before the
Committee on Interior & Insular Affairs
U.S. House of Representatives
9n H.R. 4162 1991 Hearings
Anchorage, AK
May 27, 1986

Thank you Mr. Chairman and members of the Committee for this opportunity to testify before you today. My name is John Monfor and I am a Vice President of Cook Inlet Region, Inc. ("CIRI"), one of the 12 Alaska-based regional corporations created under the Alaska Native Claims Settlement Act ("ANCSA").

These hearings mark an historic moment in the relationship between Alaska Natives and the United States Congress. For nearly 15 years now the Alaska Native community has been involved in one of the most daring experiments in this country's two centuries of American Indian policy. Since 1971, the organization of Alaska Native entities around the corporate model, has caused a rethinking of organization forms, the criteria by which to determine their appropriateness and even the purposes of American Native communities. We now have an opportunity to look back on what we have learned and what modifications, if any, should be made within the broad outlines of the 1971 settlement.

There has been, over the last two years, a remarkable debate and discussion within the Native community in Alaska, a debate and discussion that has included close ties without congressional delegation. As a result of that debate, we have determined, mutually, that the diversity so clearly represented among the various Alaska Native communities should be reflected in the architecture of any change which may be made to the 1971 statute.

There is little question that for many villages and some regions, consistent adherence to a corporate form has not provided the best way to reach communal and federal goals. In these communities, the thrust into the business environment was too sudden. There was not the management, nor the resources, to cope with so sharp a break with the old ways. In some instances, the experience of the last 15 years has taught us that there must be opportunities to strengthen the more traditional ways and to temper implementation of the settlement with more communal traditions than are available under the strict corporate form.

CIRI has embraced the corporate form with a good deal of enthusiasm. We have organized to seek business opportunities, to strengthen the corporation, to think through how CIRI can be a successful business entity that can contribute to the lives of its shareholders and the economy of the state. Congress has helped us immensely, approving the Cook Inlet land settlement in 1976 and other legislation.

But there is a need for additional Congressional action, even for the Native corporations that appear strong. If we are to negotiate the 1991 transition smoothly, there must be an orderly way for shareholders to make their views known about the future their corporations should take. There should be sufficient time so that management and boards can adequately provide shareholders with information so that they can make an informed choice.

Cook Inlet Region has undergone a careful study to determine the choices which it thinks should be available to its shareholders. What we have determined is that there is a need to allow more flexibility so that shareholders could realize the value of a portion of their equity interest in the corporation without triggering abrupt loss of control as is possible under the current situation. This proposed legislation provides for better ways of mediating between the varied interests of our shareholders.

What we have learned is a lesson that has long been known by the most successful business corporations in the country, namely that who the shareholders are and what constitutes their special desires dictates a broad spectrum of ways in which businesses can be structured. Family corporations have different goals and different strategies in terms of voting structure than do very widely held corporations. We have studied many of these structures to learn what enabling legislation we need for the levels of stock ownership and control that is needed for our shareholders.

The process of informing our shareholders is continuing at CIRI. Over the past two years, we have undertaken a complex educational program with our shareholders. Throughout, we have solicited their views on the post-1991 options. As the proposed legislation evolves, we will continue to have small shareholder meetings in various geographical areas. We will publish, through our newsletter, articles and other information that will serve to educate shareholders on the sophisticated choices they will have to make. The principle of choice embraced in the legislation is only valuable if the boards and shareholders of the Native corporations have the proper opportunity, through knowledge and informed advice, to exercise the choice.

As I hope I have made clear, Cook Inlet Region is strongly supportive of the aims of the legislation. There is one provision of the bill, however, that we cannot endorse. Section 9 of the legislation, which would authorize the transfer of title to the subsurface to village entities, is a provision that we would ask you carefully to consider.

While the legislation should provide flexibility for the business entities that Congress made the trustees of the ANCSA settlement, it must not upset the delicate relationship among the regions and villages. It regretably took many years and divisive costly litigation to resolve the issues left unclarified in ANCSA concerning the management and development of the subsurface, and the division of the revenues from such development.

We are therefore quite concerned about Section 9. We feel that it is in large part unnecessary because the protections it seeks to offer are in large measure already available. But more importantly, the provision would alter the relationships created by the finely-honed agreement known as the 7(i) settlement agreement and would likely lead to a new round of protracted litigation. It would also provide a "free ride" to those villages that would continue to participate in distributions of development proceeds earned by others, while prohibiting development under their own lands, development that could benefit themselves as well as others.

We recognize that the legislative process is not yet over for the Congress or for Cook Inlet Region. We are confident that with concerted effort on the part of all Regional and Village Corporations, the few issues still under discussion will swiftly be resolved. We have been fortunate to have a delegation from Alaska and a Congress that has been encouraging of our efforts and supportive of the needs of our people. We think the proposed amendments to the Alaska Native Claims Settlement Act represent another example of that cooperation. We have learned from the first stage of this great experiment, and we look forward, with the aid of this legislation, to a future that has a greater promise of success.

I thank you for this opportunity to comment.

I will defer questions to George Kriste, Executive Vice President of CIRI.

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Senator MURKOWSKI. Thank you very much.

Our next witness is Frank Pagano, President of Koniag, Inc.

We wish you a good morning.

STATEMENT OF FRANK PAGANO, PRESIDENT, KONIAG, INC.

Mr. PAGANO.' Mr. Chairman, I am Frank Pagano, President of Koniag, Inc. I appreciate this opportunity to appear before you and testify in regard to Senate bill 2065, a bill to amend the Alaska Native Claims Settlement Act.

Because of the importance of the issues raised by the amendments, the Board of Directors of Koniag is presently involved in a careful review of the possible effects of the amendments on the Koniag and that region.

That review is almost completed and the Board plans to address the amendments and the proposed changes at its meeting in early June.

Upon the adoption of an official position by the Board, Koniag would then be able to provide the Committee with a more detailed statement of its position on the issues raised by Senate bill 2065.

It's our intention to file supplemental comments to the committee prior to the closing of the record; which comments would set forth Koniag's position on all of the issues raised.

There are, however, two issues upon which there is unanimity among the Directors of Koniag which I would like to address today.

First is that any legislation must provide each corporation, village or region with the opportunity to decide for itself whether the restrictions on the stock which was issued will continue beyond 1991.

Alaska is a large state, and the corporations created under ANCSA are not homogeneous. We hope that the Committee will not adopt any legislation that does not provide for self-determination on these critical issues.

The second issue involves the inclusion of Section 9 in the proposed amendments. The thrust of this permission is to shift the control and decision-making for the development of the subsurface from the region to the village. Koniag adamantly opposes this provision.

Clearly, the thrust of this provision is to preclude any development from occurring. In so doing, it precludes all other shareholders in the region from receiving revenues from an asset to which they would otherwise be entitled. It guts the revenue-sharing philosophy of Section 7(i). Many corporations are able to survive today only because of the cash flow which 7(i) provides.

Section 9 also sows the seeds for further political conflict in the Native community. It will pit the village against the region, the village shareholders against the at-large shareholders. Individuals will seek to use this provision to force special shareholder meetings to transfer the long-term wealth of a region to a village entity where the assets can be locked up forever or perhaps until consideration is extracted from the region for its development.

In order to meet its responsibility to all of its shareholders, a Board of Directors of a region would almost be forced to oppose any proposed transfer.

Special shareholder meetings would have to be held and funds expended. The last thing any region needs is further unnecessary strife and limitations placed on the use of the assets needed to ensure their viability.

In short, if Section 9 is passed, everyone loses. Koniag cannot support any legislation amending ANCSA which contains a time-bomb like Section 9.

Koniag respectfully urges the committee to amend S. 2065 to delete the provisions of Section 9.

Thank you for the opportunity to express our views.

[The prepared statement of Mr. Pagano follows:]

TESTIMONY OF FRANK Pagano
PRESIDENT, KONIAG, INC.
BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON S.2065
A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. Chairman, Senator Stevens and Members of the Committee, I am Frank Pagano, President of Koniag, Inc. ("Koniag"). Koniag is one of the twelve Alaska regional corporations created by the Alaska Native Claims Settlement Act. I appreciate this opportunity to appear before you and testify regarding S.2065, a bill to amend the Alaska Native Claims Settlement Act.

Because of the importance of the issues raised by the amendments, the Board of Directors of Koniag is presently involved in a careful review of the possible effects of the amendments on the Koniag and that region. That review is almost completed and the Board plans to address the amendments and the proposed changes to them at its meeting in early June. Upon the adoption of an official position by the Board, Koniag would then be able to provide the Committee with a more detailed statement of its position on the issues raised by S.2065. It is our intention to file supplemental comments to the Committee prior to the closing of the record, which comments would set forth Koniag's position on all of the issues raised.

There are however two issues upon which there is unanimity among the Directors of Koniag which I would like to address today. First is that any legislation must provide each corporation, village or region, with the opportunity to decide for itself whether the restrictions on the stock which was issued will continue beyond 1991. Alaska is a large state and the corporations created under ANCSA are not homogeneous. We hope that the Committee will not adopt any legislation that does not provide for self-determination on these critical issues.

The second issue involves the inclusion of Section 9 in the proposed amendments. Section 9 provides a mechanism whereby a regional corporation may transfer ownership of the subsurface estate to a village corporation or village entity which owns the surface estate. The thrust of this permission is to shift the control and decision making for the development of the subsurface from the region to the village. Koniag adamantly opposes this provision.

First as a matter of policy, the transfers authorized are contrary to the philosophy of ANCSA. The drafters of ANCSA recognized that the value of the subsurface under lands historically used by the Natives of Alaska was a matter of happenstance. The land was historically used for its surface values and any benefits which were derived from the subsurface should be shared by all Alaskan Natives. This philosophy is reflected in Section 7(i) which provides for the sharing of the revenues from the subsurface. The decision as to whether development would occur was vested in the Regional Corporation which held title. This was done both because the Region would have the financial ability and business acumen to negotiate and manage the development, as well as because it would be better able to balance the interests of the local community and the interests of the region as a whole.

The proposed Section 9 stands this approach on its head. Its only effect is to give the village entity the right to control the development of the subsurface. The village would not share in any of the proceeds from the development other than what it would receive under 7(i). It would have no incentive in permitting development. The village does not have to engage in any balancing in arriving at its development decision. It only has to satisfy the narrow parochial desires of the membership even though them may be at odds with the desires and needs of the Native population as a whole. Very few village entities will have the expertise necessary to manage the development.

Clearly the thrust of this provision is to preclude any development from occurring. In so doing, it precludes all other shareholders in the region from receiving revenues from an asset to which they would otherwise be entitled. It guts the revenue sharing philosophy of Section 7(i). Many corporations are able to survive today only because of the cash flow that 7(i) provides.

Section 9 also sews the seeds for further political conflict in the Native community. It will pit the village against the region, the village shareholders against the at-large shareholders. Individuals will seek to use this provision to force special shareholder meetings to transfer the long term wealth of a region to a village entity where the assets can be locked up forever or perhaps until consideration is extracted from the Region for its development. In order to meet its responsibility to all of its shareholders, a Board of Directors of a Region would almost be forced to oppose any proposed transfer. Special shareholder meetings would have to be held and funds expended. The last thing any Region needs is further unnecessary strife and limitations placed on the use of the assets needed to insure their viability.

In short, if Section 9 is passed everyone loses. The Regions lose, the other village shareholders lose, the at-large shareholders lose and the State as a whole loses.

Koniag cannot support any legislation amending ANCSA which contains a time-bomb like Section 9. Koniag respectively urges the Committee to amend S.2065 to delete the provisions of Section 9.

Thank you again for the opportunity to express our views.

Senator **Murkowski**. Thank you very much, Mr. Pagano.

Our last witness, I believe, is Mr. Nelson Angapak. Mr. Angapak is the President of Calista Corp.

We wish you a good morning and we look forward to your testimony.

STATEMENT OF NELSON ANGAPAK, PRESIDENT, CALISTA CORP.

Mr. **Angapak**. Good morning, sir. For the record, my name is Nelson Angapak, President, Calista Corp., a regional corporation that was formed pursuant to the terms of ANCSA, and we have 13,306 shareholders.

Mr. Chairman, generally, the Calista Corp. is supportive of Senate bill 2065, the proposed 1991 legislation that is being presently considered by the House and the Senate.

Bright scholars have estimated that approximately 40 thousand Natives will have been born by the time 1991 rolls around. We at Calista feel very strongly that these Natives are no less Natives than those that were born on or before December 18, 1981. Thus, we in Calista are strongly supportive of the provisions that add Natives born after December 18, 1971 as shareholders.

Under the present provisions of ANCSA, two classes of citizens have been created; one class are those Natives with stock and the other one without stock.

It is our feeling that the purpose of ANCSA was to compensate the Natives for claims we had against the government. Thus, we feel all descendants or original Alaska Natives who have established those roots should be entitled to share the compensation so long as Native blood courses through the veins of descendants, those descendants should share in the award.

In the last few days, Senator Murkowski, much balahoo has been stated about the difference of opinion among the Natives. That is absolutely right. When you consider that there are 70 thousand Natives who are shareholders or corporations, such differences of opinion must be expected.

We are no different than other people, and we feel that what is considered differences of opinion must be constructive criticism.

Lastly, Senator Murkowski, we are requesting on the record that there will be hearings in Bethel on the proposed 1991 legislation. This request is being based on the following: 25 percent of all villages in the state of Alaska are located withing the Yukon-Ketchikan shelf. Twenty-five percent of all Natives reside in the region. Yes, there is another region who has a larger number of shareholders enrolled into it, but we have the largest number of shareholders residing within the region. In fact, less than five percent of our shareholders are enrolled at large.

Thus, we feel that the concerns of those who will be affected by any legislation should be heard and considered.

Lastly, Senator Murkowski, we urge your support for the passage of Senate bill 2065. Thank you very much.

Senator **Murkowski**. Thank you, Mr. Angapak.

I indicated in my opening comments, perhaps you weren't here, we very possibly would have another hearing in Alaska this summer. I would make every effort to accommodate you. Obviously, we can't accommodate each region by having a hearing in each area. But, depending on the summer schedule and the availability of funds through the Energy Committee, it would be my intent to recommend that we have a hearing in western Alaska. So I did want to indicate to you our intent.

I have several questions that I would like to ask of this panel. My first question would be to Mr. Don Nielsen.

In your testimony you indicated that Section 7(c) is even arguably inconsistent with this position, then let us now redraft it and move on.

I'm wondering if you have any suggested language relative to what you mean?

Mr. NIELSEN. Yes, Senator, we are specific in our recommended language. The phrase "any amendment to this Act after January 1, 1986" can be substituted for "this Act" in Section 7(c).

Senator MURKOWSKI. We will see what the Chair's solicitors have to say about that. Thank you.

I would ask John Monfor with Cook Inlet to explain to the Committee your reference to "what we have determined is that there is a need to allow more flexibility so that shareholders could realize the value of a portion of their equity interest in the corporation without triggering abrupt loss of control as is possible under the current solution." I'm wondering if you could explain how you propose to structure that flexibility so that indeed your shareholders could have a portion of their equity interest?

Mr. MONFOR. I might not have stated that well. What I was talking about——

Senator MURKOWSKI. It sounds good. I'm just curious to know how you're going to do it.

Mr. MONFOR. The opt in-opt out clauses that CIRI has prepared in its presentations to the AFN and to the village entity, it appears, Senator, that the villages within Cook Inlet region want to have the ability to retain that stock or to sell the stock, want to have that choice. That would be the intent of that.

Senator MURKOWSKI. So your position is not as restrictive as has been suggested by others in the sense of disposing of the stock.

Would you comment on inheritance. In your corporation's view, should the stock be allowed to be inherited, say, by the Caucasian member of a marriage as a survivor? Let's say a Native man married a Caucasian woman—if he died, would the stock go theoretically to her or would you restrict it?

Mr. MONFOR. Again, we haven't made that determination at the Board level. However, in our survey, the shareholders feel that they should have the choice of whether or not to convey or leave the stock to their non-Native spouse.

Senator MURKOWSKI. So the individual shareholder would have the choice, he whouldn't need a vote of the corporation?

Mr. MONFOR. Need a voting of the shareholders.

Senator MURKOWSKI. OK, you would need a vote. What kind of a vote would you need, in your opinion?

Mr. MONFOR. Well, at least a two-thirds vote.

Senator MURKOWSKI. We would appreciate for the record your evaluation of what you feel would be in your case a recommendation or the attitude within your own corporation is. Because this is an issue on which some corporations have other views. They're opposed to the transferability. I gather you feel it should be an option, and I'm curious to know what percentage of your shareholders would be necessary to support that. Do you feel satisfied that it's two-thirds?

Mr. MONFOR. I'll have that in writing.[1]

Senator MURKOWSKI. If you care to provide that for us it would be helpful.

I'm curious to have a response from Mr. Pagano on the self-determination issue, because that's where we get into the generlization of sovereignty.

Would you explain how you perceive the issue of self-determination in the sense of a village transferring its assets to another entity? Would you have those assets, namely, the land if it's revenue producing, be tax exempt once it got into the other entity. Or should the land that's approved be generating revenue to pay taxes to whatever State body is appropriate?

Mr. PAGANO. I believe the statement on any lgislation that does not provide for self-determination, I think that was referencing to the fact that in 1991, I believe that we should be free—our stock should be free to be salable, to borrow on or anything. I believe that's the word I was meaning to that. And as to the transfer of lands to any village entity—I don't know whether I understand your question fully, but I believe that any lands that are developed should be subject to tax as any other lands are.

Senator MURKOWSKI. If they're developed.

Mr. PAGANO. If they're developed. However, if they're not developed there's a difference, some lands may not have any potential development for a hundred years, where other lands are highly potential development lands today. I would feel how would you protect those types of lands out in some remote areas where they are traditionally only used to hunt and have subsistence on?

I believe some kind of legislation maybe to protect those pieces of land as opposed to the closer-in lands, very high potentially development lands today that you must do in order to survive.

Senator MURKOWSKI. Well then, I assume that you would not object then if there were clarifying language that would indicate that any asset transferred to another entity would be subject to taxation if they were revenue-producing, whatever that entity may be?

Mr. PAGANO. I don't believe we would object to that.

Senator MURKOWSKI. I would like to pursue a little bit the opposition to Section 9, and that, I believe, is the authority given the regional corporations to transfer subsurface lands to village corporations.

In your opposition to it, my question is, if you're so opposed to it how did it get in there in the first place? Anybody can answer that.

Mr. PAGANO. How it got into the bill?

Senator MURKOWSKI. Yes.

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[1] Not received for the record.

Mr. PAGANO. I have no idea. It wasn't there and then it was there; then it came in in Section 7, and then I believe it was 8 and then it ended up in 9. I really don't know how.

Senator MURKOWSKI. Anybody want to enlighten the Chair? I assume this came in because there was a concensus within the AF of N, and now I find at least three corporations saying hey we don't like it.

Mr. SILVER. Mr. Chairman, I'm Steve Silver, for the record. I guess the best way I can explain it is it was a decision made by the 1991 Steering Committee. And, as you can see, there's some dissent from some corporations.

Senator MURKOWSKI. What is the steering committee made up of?

Mr. SILVER. The 1991 Steering Committee is made up of representatives of regional corporations, village corporations and non-profit organizations. And as I recall there're 18 members—six, six and six, but I'm not certain.

Senator MURKOWSKI. Six members of which?

Mr. SILVER. Six members representing each of these three entities, regional corporations, village corporations and non-profit organizations.

And the decision to put it into the proposed legislation was made by the AFN Steering Committee, but, as I said, not everybody supports it.

Senator MURKOWSKI. Well, isn't this a case of taking value away from the regional corporation?

Mr. SILVER. Certainly, that's the basis of it, yes.

Senator MURKOWSKI. Well, I would appreciate hearing from one of the regional corporations that was in favor of this so I could get a better understanding of why it would support it. Because I have heard from those that are opposed to them, and I can understand why for the very reason I have just stated, I assume.

Mr. LAU. Senator, maybe I could comment a little bit about that. We're in kind of a unique situation in that AHTNA has merged, so with the exception of one village, our surface and our subsurface states are owned by the same corporation. And so that part of the bill creates no problems for us. And I think that this is—maybe this is a tad bit off the point, but I think my comments highlight the differences in the corporations and the differences in the circumstances, the differences in the situations and the need for options.

Senator MURKOWSKI. Well, the record will be open and I would solicit input from the corporations who are speaking today that did support the inclusion of this particular portion for Section 9 so that we can better understand why they support it. I understand why those of you so far haven't.

Mr. KRUKOFF. Mr. Chairman.

Senator MURKOWSKI. Yes, Mr. Krukoff.

Mr. KRUKOFF. In answer to your question of who supported Section 9. For the record, I would like to show that the Aleut Corp. does not support Section 9, and that we went along with Section 9 because of the process. There was a period of compromise. There's a portion of the bill that, you know, everybody's unhappy with, and that happens to be one part of the bill that we're unhappy with.

Senator MURKOWSKI. I would appreciate some input on your assessments of the question of land banks. The Department of the Interior has indicated that they feel that they have an application but they haven't moved very fast on them. I'm wondering if the land banks as a reality would mean that the tax exempt part of the bill was basically unnecessary? Would that be the case?

Mr. SILVER. Mr. Chairman, again this is Steve Silver with the Bristol Bay Native Corp.

Bristol Bay has probably had more experience than any other corporation in attempting to work with the Department of the Interior to reach agreement on land banks; an agreement which we simply have not had any success to this point. We have been asking for almost a year and a half and have gone to the degree of trying to develop a model land bank agreement which would allow both our corporation and any other corporation that was interested to simply fill in the name of the corporation and some type of land description and the rest of the agreement would be self-executing.

While we feel we have reached an agreement with the Department of the Interior on the model agreement, we can't seem to get it implemented. And at this point, Bristol Bay doesn't see any basis upon which the land bank can be thought to be self-implementing without some type of statutory extension of land bank protections as proposed in the legislation. And I suppose things can always change, but I tend to doubt it.

I feel that the stautory protections are absolutely vital with the land bank provisions which were in the 1980 bill are actually to become a reality.

Mr. LAU. Senator, I would like to comment also on your question.

Senator MURKOWSKI. Please do.

Mr. LAU. I think that's not necessarily so that that would make those moot in this case. We're looking at options. We're in a situation where lands are sandwiched in the middle between inlands where the state is developing long-range management plans for those lands and a new 12.1 million acre national park. What we don't know what the park's management scheme is going to develop. We don't know which 1991 amendments are going to pass.

So the land bank is one option for us along with other options, depending on how things pass. We are pretty much ready to—our information base is up on our resources in our region and we're pretty much ready to really start some long-range detail planning for lands, except that we don't know what all the alternatives are.

And I think the land bank—especially since you can put in for five years you can pull it out, you can put in portions. It provides another whole series of alternatives in combination with other alternatives that could come from the 1991 amendments to satisfy a variety of goals over the long-term.

Senator MURKOWSKI. I'm going to conclude with two more questions.

Mr. ANGAPAK. May I respond?

Senator MURKOWSKI. You may.

Mr. ANGAPAK. We have been watching the progress—or lack or progress I think is a proper term, between Bristol Bay Native Corp. and their negotiations with the Department of the Interior in putting together the land bank agreement. And we have come to the conclusion that what we thought was a reprieve, the inclusion of the land bank system in 1980, is really something that is there but cannot be implemented unless the U.S. Congress twists the arm of Interior that what we have found to be a victory in 1980 should in fact become a reality. And, thus, we are very strongly supportive of that language.

Senator **Murkowski**. Thank you, Mr. Angapak.

The structure of the change in the stock from being open and transferable and traded and so forth as devised in the original language to the proposal is that it be restricted for an extended period of time up to each corporation making the eventual disposition. We have heard testimony, particularly in Fairbanks, with regard to further restrictions, not being available outside the Native community. These restrictions indicate that the shares could not be put into a position where theoretically they could be lost outside the Native community, which implies that this stock which represents a percentage of ownership in the corporation would become so restricted that it would really not have value to a shareholder. He couldn't borrow on it. He couldn't go into business.

Assuming this concept perpetuates, is it not conceivable that your shareholders will say that this stock, outside the benefits of dividends for earnings, has no benefits. It would be likely that they just pool their stock into an association or tribal status or reservation and then we're acknowledging that the corporate experiment hasn't worked. The corporate experiment in itself has too much risk because the corporation implies that the ownership of stock if you would have the availability of a return but you also have the corporate risk, while the association implies that everything is taken care of, you belong to a reservation, those after-borns are taken care of.

My question specifically is, the more we restrict this, aren't we in effect evolving into a type of some stock that becomes so restrictive that you're fostering in effect the association or the reservation ultimately?

Now, I recognize that each of you have differences of opinion on this, and I don't expect you all to answer. The reason I'm pursuing this question is that you represent in your panel the presidents or the spokesmen of the corporations that are here testifying.

Mr. **Silver**. Mr. Chairman, I'd like to comment on that for Bristol Bay.

I think the answer for Bristol Bay would be a resounding no. There are a variety of inherent rights the shareholder has in addition to the right to sell stock or the ability to sell stock or the ability to collect dividends which are not available in another association.

Our longer written statement details those. They include the right to receive an annual report, and a right to examine the books of your corporation, right to file a shareholders' derivitive suit if the shareholder believes the corporation is not being properly run. All those are very meaningful as far as Bristol Bay is concerned and would act to provide our shareholders a basis for feeling its stock is still certainly worth holding even if it is restricted.

Our own survey shows that 63 percent of our shareholders at this point at least would vote to restrict their stock. Consequently, we feel that our shareholders are for restricted stock, although they would want to make the decision themselves.

And in summary, we don't think the restricted stock will necessarily so discourage shareholders that they will say why don't we go into some association because the stock is really not meaningful to us any more unless we can sell it. I think there's a lot of other attractions to the pro forma governments and I'm sure that our shareholders would want to maintain a corporation rather than looking at an alternative form.

Senator MURKOWSKI. Are there any others? You don't all have to comment on that.

Mr. ANGAPAK. Senator Murkowski.

Senator MURKOWSKI. Go ahead, Mr. Angapak.

Mr. ANGAPAK. You know, with the passage of the Land Claims Settlement Act and the expectations that have been made to the Natives since the passage of the Act these 14 years, to evolve from basically a subsistence way of life into a Wall Street expert I think, to be quite honest, that was an unrealistic expectation.

I think when you started looking at the Native corporations, I think we are under the mistaken sense that if we looked at the corporation in strictly the American sense, I think we're looking at it a little bit differently. Because our values and our feelings are quite a bit different from those corporations where you're looking at a strict economic, legal and business sense.

I think until such time as we have been given an adequate time to evolve, we don't have a choice but to evolve into an economic viable corporations. Our expectations are pretty strong. I am, too, in agreement with the statement that was made by the Counsel for the Bristol Bay Corp.

Senator MURKOWSKI. Thank you. My last question is with regard to those born after 1971. Can somebody give us a suggested formula for taking care of those born after 1971, or is it simply a matter of voting to dilute the stock of each member of the corporation eventhose without children?

Mr. ANGAPAK. Mr. Chairman.

Senator MURKOWSKI. Mr. Angapak.

Mr. ANGAPAK. The "wherefores and therefores and the i's and the t's" of that question has yet to be fully understood. But we at Calista have always felt that a Native is a Native from the time that that person is born. And we strongly feel that a Native born after December 18, 1971, is no less Native than one that was born before that.

Senator MURKOWSKI. I understand. That's been stated. I'm interested in somebody putting together a formula, some kind of an answer to it. I know what the problem is.

Mr. ANGAPAK. Mr. Chairman, whatever is in the Act of the issuance of stock to the Natives born after December 18, 1971, I think is an option that is up to each corporation to face.

Senator MURKOWSKI. I agree.

Mr. ANGAPAK. And I believe that each corporation, the shareholders of those corporations must be given that opportunity to handle that question.

Senator **Murkowski**. There's no question of the fact that it's a Native issue. I'm just curious to know if anybody has a formula on how you dilute?

Mr. **Angapak**. Mr. Chairman, I think that's already been answered. I think each corporation can decide how that issue is resolved.

Senator **Murkowski**. I'm interested in any corporation suggesting how they might do that. Does anyone have an answer? If not, we will go on to the next panel, because that's my last question. No answer. All right. We will assume that that's one unanswered question. If any of you would like to submit a suggested formula for the record it would be of interest, because this question continually comes up as to how the process would occur, what kind of formula would be levied out of any individual corporation to address this issue.

Thank you very much, gentlemen.

I would now call on panel 6. This panel has four members: Mr. Sam McDowell, Director of the Isaak Walton League of America; Mr. Jeff Parker, accompanied by Bob Hunter, Alaska Sports Fishermen Association; Mr. Ed Grasser, Alaska Outdoor Council; Mr. Wayne Anthony Ross and Cheri Jacobus from the National Rifle Association and Alaska Gun Collectors Association.

We're going to give the court reporter a break here.

[Whereupon, a 5-minute recess was taken.]

Senator **Murkowski**. We will proceed with panel 6. Our first witness is Sam McDowell, Director of the Isaak Walton League of America.

STATEMENT OF SAM McDOWELL, NATIONAL DIRECTOR, ISAAK WALTON LEAGUE OF AMERICA

Mr. **McDowell**. Good morning, Senator Murkowski. I thank you for holding this hearing in Anchorage and giving us an opportunity to testify.

For the record, good morning. My name is Sam McDowell, I'm a 38-year resident of the State of Alaska, a national director of the Isaak Walton League of America, and a concerned American.

I'll begin by stating facts I believe to be of paramount importance to all Americans. I am of the opinion if these proposed amendments are passed as drafted, they will: No. 1, foreclose more outdoor recreational opportunities in the State of Alaska than is available in the entire continental United States combined; No. 2, will foreclose Alaska's rights to manage common property fish and wildlife resources for all on a professional sustained yield basis for all American's enjoyment and utilization; No. 3, will foreclose Alaska's and the U.S. Government's right to develop Alaska's valuable natural resources; No. 4, cause major user conflicts and tax rebellions when non-Native Alaskans are assessed additional taxes to pay for a free tax moratorium of Alaska Native properties; No. 5, cost the State of Alaska and the U.S. Government billions of dollars in and additional increased expenses. For example, if these proposed amendments are passed as drafted, no doubt, concerned Alaskans will file a multi-million dollar lawsuit to reclaim the $500 million plus interest for Alaska's contribution to the Settlement

Act; No. 6, will force the U.S. Government to implement the same type of social programs, regulations, and etc., that presently are in effect on Indian reservations and etc., in the continental United States. In reference to tribal control of resources, sovereign nation status laws, and etc., which will cost the U.S. Government billions of dollars in increased social programs. For example, in the State of Michigan, tribal governments certify their own blood quantums that allows one-thirty-second of Indian blood degree to be issued Indian fishing cards and other special additional State and Federal social programs.

There is no doubt in my mind these same special interest, Native-right's attorneys who have been working in closed-door sessions to draft these foreclosures of equal rights amendments in Alaska, will waste no time after passage of these amendments to go to court and force implementation of the Native rights presently in force in the continental United States, claiming the U.S. Government reopened the Alaska settlement. Thus, giving Alaska Natives additional major concessions after final settlement. Therefore, they likewise are entitled to reopen their past settlements.

Please note Congressman Don Young stated in the June–July 1985, Alaska Federation Native Newsletter, a copy attached, that as amendments are drawn up: we have to take into consideration the possibility of outside influence on this legislation. The legislation has to be drawn up carefully so that it is only referred to the Interior Committee on the House side.

Congressman Young proved to me that he is part of this conspiracy by allowing only Native representatives and Governor Sheffield to testify during the August 9th, 1985 Anchorage Oversight hearing, and refusing my request to be allowed to testify.

[Attachments to Mr. McDowell's statement have been retained in subcommittee files.]

Senator MURKOWSKI. I thank you.

I just have one question. We would appreciate your addressing having any corrected language that would cure some of the exposure that you have indicated and I would encourage you and welcome you to do that. The record will be open for 30 days.

Mr. MCDOWELL. I shall do that. However, we have our League counsel sitting with us at the table and they shall be addressed.

Senator MURKOWSKI. Thank you. Yours out-weighs the previous ones we have had in weight.

Our next witness is Mr. Jeff Parker, accompanied by Mr. Bob Hunter, Alaska Sports Fishermen Association.

STATEMENT OF JEFF PARKER, ALASKA SPORTFISHING ASSOCIATION

Mr. PARKER. Mr. Hunter is not here today.

Mr. Chairman, I'm Jeff Parker, a member of the Board of Disrectors of the Alaska Sportfishing Association, the largest sportfishing association in Alaska.

A major concern in the 1991 amendments is Native tribal sovereignty. The Alaska Sportfishing Association opposes tribal sovereignty.

While S. 2065 does not expressly grant sovereignty, we conclude that the bill reverses the direction that Congress took in 1971 in passing the Alaska Native Claims Settlement Act.

The Act moved Alaska Natives away from the dependent status of Native American in the Lowe 48. It set them on a course of independence through corporate institutions, conventional relationships to State and Federal governments, and fee simple ownership of lands.

This is in contrast to the special dependent status of Native Americans in the Lower 48 which underlies tribal sovereighty situations.

We conclude that S. 2065 invites sovereignty through subtle drafting that is designed to defeat arguments that the Alaska Native Claims Settlement Act eliminated the legal foundation for tribal sovereignty.

Section 7 of the bill has become the focus of the sovereignty discussion, but other sections should be addressed as well.

Section 7 would amend the Settlement Act to say that the Act did nothing to affect governmental authority of tribal entities or the rights, privileges and immunities of Alaska Natives in their relationship to the United States. We urge deletion of Section 7.

While other portions of the bill may deserve support, they need to be qualified to say that they shall not be construed as supporting sovereignty. These include the tax provisions, the matters dealing with transfer of assets to qualified transferee entities, the racially-defined membership of those entities, and the findings section of the bill.

These provisions are analogous to situations in which sovereignty does occur and they should not become underpinnings for sovereignty in this state without a full public debate of the issue.

The reason the Alaska Sportfishing Association is so concerned about this bill is that sovereignty is a government-to-government relationship between the United States and Indian tribes. That special relationship largely displaces state authority. State authority would be diminished over natural resources, including regulations that protect habitat, forestry practices, fish and wildlife harvest seasons, water quality, environmental conservation requirements, and civil court jurisdiction. All of these as state jurisdictions would or could be diminished. They are the areas that protect our resources.

Tribal sovereignty would make management of highland migratory species, such as salmon, very difficult, because each tribal governmental entity could have authority to establish its own management.

Amending the Alaska Native Claims Settlement Act to say that it did nothing to affect tribal sovereignty is contrary to the tenor of the Act. The Act expressed a policy against creating permanent racially defined institutions, rights, privileges and obligations.

Senator MURKOWSKI. I wonder if you would summarize your remaining statement.

Mr. PARKER. I just have a couple more paragraphs.

It established a policy against creating reservations or other forms of Indian Country that underpin sovereignty. It established a policy against specal tax privileges and special government relationships. Section 7 of the bill would undercut this policy.

With respect to the taxability of undeveloped lands, we support incentives to retain Native lands in an undeveloped condition. Howerve, we believe that the land bank provisions of Section 907 of the Alaska National Interest Lands Conservation Act provide an excellent mechanism by which undeveloped lands can remain nontaxable after 1991 in return for conservation agreements with the federal government.

To date, Section 907 has been generally unutilized because there is no incentive to utilize it until Native lands become taxable. Therefore, we urge that Congress ask the Native community why the land bank provisions of ANILCA are not fully satisfactory to their concerns before adopting the tax provisions in this bill.

If there are problems with the land bank provisions, then they should be identified. The Native community has yet to do that, and it may well be that Congress should strengthen the land bank provisions as the solution to the tax question. Thank you.

Senator MURKOWSKI. Thank you very much, Mr. Parker. We appreciate the suggested language that you have included. Your entire statement will be in the record as if read.

Mr. PARKER. Thank you.

Senator MURKOWSKI. Representing the Alaska Outdoor Council, Mr. Ed Grasser. Please proceed.

STATEMENT OF ED GRASSER, ALASKA OUTDOOR COUNCIL

Mr. GRASSER. Thank you, Senator Murkowski.

May name is Ed Grasser. I represent the Alaska Outdoor Council.

The members of the Alaska Outdoor Council would like to express our appreciation for being given this opportunity to present our views and opinions on the proposed amendments to ANCSA.

We are specifically concerned about the two sections within S. 2065 which concern taxation and sovereignty, Sections 7 and 10.

It is our contention that these two sections are not in the best interest of the State of Alaska and the people who make their homes here.

Although Alaskan Natives have many legitimate concerns involving the continued ownership of a land base sufficient for maintaining to some degree traditional cultural lifestyles, it seems somewhat discriminatory and shortsighted to allow those lands to enjoy freedom from taxation and perpetuity.

Most would probably agree with allowing tax breaks on undeveloped lands held mostly for subsistence and other similar purposes. However, not all undeveloped lands can or should be classified as such due to the fact that in certain areas of the State, undeveloped lands can be of great value for speculative reasons. To allow Native entities tax-exempt status on such lands gives them an undue advantage over other citizens.

Secondly, and more importantly, untaxed lands could be managed by tribal governments under the proposed amendments and would then be known as Indian Country, in our view, an important and necessary step toward sovereignty.

Section 7 raises our greatest concern within the proposed amendments. We have been told over and over for the past few months that our concerns on this section are unfounded. It that is true, then why is this section included in the bill, why do we need it and what does it do if not what we and several other legal experts think it does?

According to several attorneys who we have either talked to or received written documents from, the proposed language in Section 7 significantly alters the original Act of 1971.

It is their contention and ours that the proposed language would significantly change the original Act by rolling back or eliminating the extinguishing language.

An interesting note here is that of the aforementioned attorneys, two are essentially opposed to sovereignty and two are essentially in favor of it.

Once again, we would like to know how you can continue to refute a disclaim that we and others see as a legitimate argument.

In conclusion, we would like to stress a couple of points. First, we believe Section 10 should be carefully looked at so as to contain the language necessary to provide the Native peoples of Alaska an optiumum opportunity to retain their lands, while not creating an adverse burden on the rest of Alaska's citizens.

Secondly, we would like to see Section 7 eliminated from this legislation and if necessary, language inserted which will once and for all eliminate any movement toward the establishment of Native sovereignty in Alaska.

It is our contention that this is absolutely necessary if we are to avoid the problems of racial divisiveness which would occur over the organization and establishment of racially-based communities.

In the long-run few, if any, Alaskans would benefit from such a scenario. Non-Natives would be severely impacted in pursuit of their economic and recreational opportunities in the near-term, as would many Native Alaskans.

In the long-term, Native Alaskans would be tied to lands and corporate stocks that may mean very little in terms of survival either economically or culturally.

Sovereignty or any other move to isolate Alaska Native culture in time cannot and will not suffice in providing Alaska Natives protection from change or economic pitfalls.

Senator **Murkowski**. May I ask you to wrap up your statement.

Mr. **Grasser**. I have one sentence left, Senator.

A brief perusal of the history of the human species would substantiate this fact. Thank you.

Senator **Murkowski**. Thank you very much, Mr. Grasser.

Our next witness will be Mr. Wayne Anthony Ross, accompanied by Cheri Jacobus. Please proceed.

STATEMENT OF WAYNE ANTHONY ROSS, COUNSEL FOR THE NATIONAL RIFLE ASSOCIATION AND THE ALASKA GUN COLLECTORS ASSOCIATION

Mr. **Ross**. Thank you, Senator. I have given you some formal remarks which I would like to be a part of the record.

Senator MURKOWSKI. Without objection, they will be entered into the record.

Mr. ROSS. I appreciate the opportunity to be heard, especially heard here in Anchorage. I'm here as a spokesman of the National Rifle Association and the Alaska Gun Collectors Association.

Both groups oppose the so-called Native sovereignty movement, and, therefore, oppose the amendments as they are presently written.

Our groups are comprised of hunters, fishermen and other persons interested in the outdoors experience. We believe that proper game management requires that game management be handled by the individual States; such as the State of Alaska.

We believe that amendments are necessary to the Alaska Native Claims Settlement Act by 1991, but they are not necessarily necessary by 1986.

Sovereignty could interfere with proper game management. And, indeed, articles have appeared in which Native leaders have talked about assuming management of game resources.

Unalakleet has announced commercial fishing licenses, although I understand they have not proceeded with those licenses as yet.

The Village of Tyonek has enacted legislation banning whites from staying overnights in villages.

Now when I first came here we were all united as Alaskans. Since the passage, and indeed since consideration of ANCSA, a divisiveness has arisen caused by the federal government in this legislation.

ANILCA and ANCSA have created various classes of citizens here in Alaska; some citizens who can hunt when others can't, some citizens who have to pay taxes when others don't.

This is in effect an apartheid situation in Alaska, and extensive litigation has resulted as a result of federal legislation. This litigation has been going on for years. It's a make-work project for attorneys. I'm an attorney, and I do appreciate that some of my brother attorneys are at work, but I don't think it's best for the state of Alaska.

Senate bill 2065 raises more questions than it settles. Congress, I believe, should settle the questions once and for all and not merely raise questions.

With all due respect, remaining neutral on the Native sovereignty movement is not the answer. That's the Pontius Pilot approach. It is not in the best interest of Alaskans to remain neutral.

I believe the Congress should take the bull by the horns and put in provisions that clearly spell out when Native lands are and when they are not subject to state law; make it clear that the state of Alaska continues the management of fish and game resources, put in a provision that if a Native group wishes tax-exempt status on its lands it clearly agrees to drop any claims for sovereign status. In short, extensive revisions of these proposed amendments are necessary and we believe they cannot be passed in 1986—should not be passed in 1986 and should not be passed at all this year.

[The prepared statement of Mr. Ross follows:]

Wayne
Anthony
Ross
ATTORNEY AT LAW

LAW OFFICES OF
ROSS, & GINGRAS
A PROFESSIONAL CORPORATION
1007 W. THIRD AVENUE, SUITE 304
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5307

WAYNE ANTHONY ROSS
THOMAS S. GINGRAS

CHERI C. JACOBUS
ALLEN M. BAILEY

OF COUNSEL:
DONALD J. MILLER

REMARKS GIVEN BY ATTORNEY
WAYNE ANTHONY ROSS ON MAY 27, 1986
TO THE SENATE COMMITTEE IN ANCHORAGE

GOOD MORNING -- MY NAME IS WAYNE ROSS. I AM AN ATTORNEY, AND A FEDERAL APPOINTEE TO THE ALASKA LAND USE COUNCIL ADVISORS COMMITTEE. I AM HERE AS SPOKESMAN FOR THE NATIONAL RIFLE ASSOCIATION AND THE ALASKA GUN COLLECTORS ASSOCIATION. THEY SHARE A COMMON INTEREST IN THE ALASKAN WILDERNESS.

THIS COMMITTEE IS PRESENTLY CONSIDERING SB 2065 -- AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. I AM HERE TO TESTIFY AGAINST THE PASSAGE OF THESE AMENDMENTS. THE AMENDMENTS THAT YOU ARE CONSIDERING WOULD GROSSLY ALTER THE INTENT OF THE ORIGINAL ALASKA NATIVE CLAIMS SETTLEMENT ACT WHICH WAS TO BE A FULL SETTLEMENT OF ALL ALASKA NATIVE CLAIMS. IN YOUR DELIBERATIONS, YOU SHOULD NOT LOSE SIGHT OF THE FACT

THAT THIS SETTLEMENT WAS TO SETTLE ALL NATIVE CLAIMS IN ALASKA. IT WAS THE LARGEST LAND SETTLEMENT NEGOTIATION WITH AN AMERICAN NATIVE POPULATION IN THE UNITED STATES HISTORY. IT INVOLVED THE SELECTION AND TRANSFER OF OVER 40 MILLION ACRES OF ALASKA LAND AND PAYMENT TO ALASKA NATIVE GROUPS OF MORE THAN $962 MILLION DOLLARS. IT EXTINGUISHED ALL RESERVATION LANDS WITH ONE EXCEPTION. ITS SPECIFIC PURPOSE WAS TO AVOID CREATING A RESERVATION SYSTEM AND TO AVOID ESTABLISHING ANY PERMANENT RACIALLY DEFINED INSTITUTIONS OR CREATING ANY RACIALLY DEFINED RIGHTS OR PRIVILEGES. THE BOTTOM LINE IS THAT THIS SETTLEMENT WAS TO BRING THE ALASKA NATIVE POPULATION INTO THE MAIN STREAM OF ALASKAN LIFE. THE INTENT WAS CLEARLY TO AVOID TRIBAL SOVEREIGNTY SUCH AS HAS EXISTED IN THE REST OF THE UNITED STATES.

WHILE THE SPONSORS OF THIS LEGISLATION, THE ALASKA DELEGATION, HAVE STATED ON NUMEROUS OCCASIONS THAT THIS LEGISLATION IS INNOCUOUS AND THAT THESE AMENDMENTS HAVE NOTHING TO

DO WITH NATIVE SOVEREIGNTY, THE TRUTH IS THAT THE PROPOSED AMENDMENTS WERE CAREFULLY ORCHESTRATED BY THE NATIVE COMMUNITY'S ATTORNEYS TO ACHIEVE NATIVE SOVEREIGNTY. I HAVE TODAY FURNISHED YOU COPIES OF THE INTERNAL MEMORANDA PREPARED BY THE ATTORNEYS WORKING FOR THE VARIOUS ALASKA NATIVE ORGANIZATIONS WHICH ABSOLUTELY ESTABLISH THAT THE PURPOSE BEHIND THE AMENDMENTS YOU HAVE BEFORE YOU WAS TO FACILITATE NATIVE SOVEREIGNTY.

SOME OF THESE AMENDMENTS ARE DECEPTIVE. SECTION 7(c) IS A GOOD EXAMPLE. IT READS:

> "NOTHING IN THIS ACT SHALL BE CONSTRUED AS ENLARGING OR DIMINISHING OR IN ANY WAY AFFECTING THE SCOPE OF ANY GOVERNMENTAL AUTHORITY OF A FEDERALLY RECOGNIZED TRIBE, TRADITIONAL NATIVE COUNSEL, OR NATIVE COUNSEL ORGANIZED PURSUANT TO THE INDIAN REORGANIZATION ACT, AS AMENDED, OR ANY RIGHT, PRIVILEGE, OR IMMUNITY OF ALASKAN

NATIVES AS NATIVE AMERICANS IN THEIR RELATIONSHIP WITH THE GOVERNMENT OF THE UNITED STATES."

THIS PARTICULAR SECTION NEGATES THE INTENT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. IN A DOCUMENT WHICH GOVERNOR SHEFFIELD RECENTLY PROVIDED ME AND WHICH WAS PREPARED BY THE GOVERNOR'S TASK FORCE ON FEDERAL-STATE-TRIBAL RELATIONS, THERE IS A GOOD REVIEW OF THE CLEAR INTENT OF CONGRESS IN PASSING THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. AMONG OTHER THINGS, THE GOVERNOR'S TASK FORCE POINTS OUT THAT THE ARGUMENT FOR NATIVE SOVEREIGNTY DEPENDS FOR THE MOST PART ON THE EFFECT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. IT POINTS OUT THAT THERE ARE SEVERAL SECTIONS WHICH CLEARLY INDICATE THAT THE INTENT OF CONGRESS IN PASSING THAT ACT WAS TO ELIMINATE THE EXISTENCE OF INDIAN COUNTRY IN ALASKA, A REQUIREMENT FOR NATIVE SOVEREIGNTY. IN THE DECLARATION OF POLICY, SECTION 2(b) OF ANCSA, CONGRESS STATED:

> THE SETTLEMENT SHOULD BE ACCOMPLISHED RAPIDLY . . . WITHOUT ESTABLISHING ANY PERMANENT RACIALLY DEFINED INSTITUTIONS, RIGHTS, PRIVILEGES, OR OBLIGATIONS, WITHOUT CREATING A RESERVATION SYSTEM OR LENGTHY WARDSHIP OR TRUSTEESHIP . . .

CONGRESS CLEARLY INTENDED TO AVOID CREATING A RESERVATION SYSTEM OR RACIALLY DEFINED INSTITUTIONS OR RIGHTS; IT ALSO WENT ONE STEP FURTHER AND ACTUALLY EXTINGUISHED ALL RESERVATIONS IN ALASKA WITH THE EXCEPTION OF THE METLAKATLA INDIAN COMMUNITY OF ANNETTE ISLAND. SIGNIFICANTLY, THE METLAKATLA INDIAN COMMUNITY DID NOT SHARE IN THE SETTLEMENT LARGESS. THE CONGRESSIONAL CONFERENCE COMMITTEE EXPLAINED THE PURPOSE OF THE CHANGE OF LAND OWNERSHIP STATUS FROM RESERVATION (WHERE TITLE WAS HELD BY THE SECRETARY OF INTERIOR IN TRUST) TO PRIVATE FEE LANDS (WHERE TITLE IS HELD BY BUSINESS CORPORATIONS ESTABLISHED PURSUANT TO STATE LAW) AS FOLLOWS:

> "SUBSECTION 2(g) OF THE CONFERENCE REPORT IS TO BE STRICTLY CONSTRUED AND THE CONFERENCE COMMITTEE DOES NOT INTEND THAT LANDS GRANTED TO NATIVES UNDER THIS ACT BE CONSIDERED 'INDIAN RESERVATION' LANDS FOR PURPOSES OTHER THAN THOSE SPECIFIED IN THIS ACT. THE LANDS GRANTED BY THIS ACT ARE NOT 'IN TRUST' AND THE NATIVE VILLAGES ARE NOT 'INDIAN RESERVATIONS'."

AS GOVERNOR SHEFFIELD'S TASK FORCE FOUND, THE MAJOR DIFFERENCE BETWEEN A RESERVATION AND PRIVATE FEE LAND IS THAT THE FORMER IS INDIAN COUNTRY AND THE LATER IS NOT. CONGRESS INTENDED ITS REVOCATION OF ALL BUT ONE INDIAN RESERVATION TO MAKE NATIVE PEOPLE IN ALASKA SUBJECT TO THE SAME LAWS AS OTHER RESIDENTS OF ALASKA.

THERE ARE TWO ADDITIONAL PROVISIONS OF ANCSA WHICH SUPPORT THIS ARGUMENT ACCORDING TO THE GOVERNOR'S TASK FORCE.

IN ANCSA, CONGRESS REQUIRED EVERY NATIVE VILLAGE, INCLUDING VILLAGES WITH IRA CONSTITUTIONS, ELIGIBLE TO PARTICIPATE IN ANCSA TO ORGANIZE A VILLAGE CORPORATION TO

RECEIVE CONVEYANCE OF THE LANDS WITHIN AND SURROUNDING THE VILLAGE. ONCE THEY RECEIVED THEIR LAND CONVEYANCE, SECTION 14(c)(3) REQUIRED THE VILLAGE CORPORATION TO RECONVEY AT LEAST 1,280 ACRES OF LANDS WITHIN THE VILLAGE TO THE VILLAGE MUNICIPAL GOVERNMENT. IF THEY HAD NOT ORGANIZED A MUNICIPAL GOVERNMENT, THE 1,280 ACRES WAS TO BE CONVEYED TO THE STATE OF ALASKA IN TRUST FOR ANY MUNICIPAL GOVERNMENT THAT MIGHT BE ESTABLISHED IN THE FUTURE. THIS CLEARLY IMPLIES THAT THE INTENT OF CONGRESS WAS TO REQUIRE THE GOVERNMENT REGULATORY POWERS TO RESIDE IN A STATE RECOGNIZED MUNICIPAL GOVERNMENT.

SIMILARLY, SECTION 21(d), WHICH SHIELDS UNDEVELOPED LANDS OF THE NATIVE PEOPLE FROM STATE AND LOCAL PROPERTY TAXES FOR A PERIOD OF 20 YEARS, SUPPORTS THE ARGUMENT THAT THE ALASKA NATIVE CLAIMS SETTLEMENT ACT WAS INTENDED TO DIMINISH THE SCOPE OF ANY GOVERNMENTAL AUTHORITY OF A NATIVE GOVERNMENT. SECTION 21(d) ASSUMES THAT THE ALASKA LEGISLATURE HAS JURISDICTION TO TAX ANCSA LANDS AND, CONSEQUENTLY, SHIELDS

UNDEVELOPED LANDS FROM STATE TAXATION FOR 20 YEARS. SINCE IT IS A FUNDAMENTAL TENET OF FEDERAL INDIAN LAW THAT LANDS WITHIN THE BOUNDARIES OF INDIAN COUNTRY ARE EXEMPT FROM STATE TAXATION AT ALL TIMES, CONGRESS OBVIOUSLY BELIEVED THAT AT THE TIME IT PASSED ANCSA, THESE LANDS WOULD BE SUBJECT TO STATE TAXATION AND THEREFORE WERE NOT INDIAN COUNTRY.

SECTION 7(c) OF THE AMENDMENTS YOU HAVE BEFORE YOU NEGATES THE CLEAR INTENT OF CONGRESS IN PASSING THE SETTLEMENT BY AMENDING THE ACT. A SETTLEMENT IS A SETTLEMENT AND THERE SHOULD BE NO CHANGES TO IT AT A LATER TIME.

PERHAPS THE MOST IMPORTANT ISSUE TO BE FACED BY THIS SUBCOMMITTEE IS THAT THE AMENDMENTS YOU HAVE BEFORE YOU WOULD ENCOURAGE NATIVE SOVEREIGNTY IN THE STATE OF ALASKA BY ALLOWING THE PRIVATELY OWNED PROFIT MAKING REGIONAL CORPORATIONS TO TRANSFER THE LAND HOLDINGS TO TRIBAL GOVERNMENTS. THIS WOULD GIVE THE ADVOCATES OF TRIBAL SOVEREIGNTY THE LAST NAIL TO NAIL IN THE COFFIN TO ACHIEVE

THEIR GOALS. INDIAN AUTHORITIES HAVE LONG RECOGNIZED THAT ONE OF THE MOST IMPORTANT ELEMENTS IN DETERMINING WHETHER THERE IS INDIAN COUNTRY WITH ITS CONCOMMITENT TRIBAL GOVERNMENT SOVEREIGNTY IS LEGAL TITLE VESTED IN THE TRIBAL ENTITY OR HELD IN TRUST BY THE UNITED STATES GOVERNMENT. THIS WAS RECOGNIZED BY THE GOVERNOR'S TASK FORCE AND HAS BEEN RECOGNIZED BY SUCH RENOWNED AUTHORITIES ON ALASKA NATIVES AS DAVID S. CASE. THIS LAND OWNERSHIP ISSUE IS MOST IMPORTANT. BY TYING TRIBAL GOVERNMENTAL ENTITIES TO OWNERSHIP OF LAND, CONGRESS WILL HAVE RECREATED A DIFFERENT RESERVATION SYSTEM. WHILE THESE RESERVATIONS WOULD BE DIFFERENT FROM THOSE IN THE LOWER 48 IN THAT THE OWNERSHIP OF LAND WOULD BE IN THE TRIBAL GOVERNMENTAL ENTITY AND NOT IN THE HANDS OF THE UNITED STATES GOVERNMENT, THE EFFECT WOULD BE THE SAME. THERE HAVE BEEN SEVERAL FEDERAL COURT DECISIONS WHICH HAVE HELD THAT LAND OWNED BY AN INDIAN TRIBE MAY BE A DEPENDENT INDIAN COMMITTEE WITH TRIBAL SOVEREIGNTY.

REMEMBER, THERE ARE SECOND AND THIRD GENERATION NON-INDIAN OR NON-NATIVE PEOPLES LIVING IN ALMOST ALL OF THE AREAS WHICH ARE AFFECTED BY THE ALASKA NATIVE CLAIMS SETTLEMENT ACT WHO WOULD SUDDENLY FIND THEMSELVES SUBJECT TO INDIAN LAW WITHOUT THE CONSTITUTIONAL SAFEGUARDS WE ALL ENJOY, FOR EXAMPLE, DUE PROCESS, IF THESE AMENDMENTS PASS.

CONGRESS MUST NOT RENEGOTIATE THE SETTLEMENT WHICH WAS NEGOTIATED BETWEEN THE FEDERAL GOVERNMENT AND THE NATIVE COMMUNITY IN ALASKA. IF CONGRESS WERE TO DO SO, IT INVITES THE TYPE OF LITIGATION THAT ALASKANS ARE BEGINNING TO SEE IN THE FEDERAL COURTS. IN THE CASE OF THE VILLAGE OF TYONEK vs. PUCKETT, WHICH IS CURRENTLY BEING CONSIDERED IN THE UNITED STATES FEDERAL DISTRICT COURT IN ANCHORAGE, THE VILLAGE OF TYONEK PASSED AN ORDINANCE WHICH SPECIFICALLY PROHIBITED WHITE MEN FROM LIVING WITHIN ITS BOUNDARIES AND PROHIBITED TRIBAL MEMBERS FROM RENTING HOUSES TO WHITE MEN AND WOMEN. THIS TYPE OF RACIAL DISCRIMINATION SHOULD NOT BE TOLERATED. IF

CONGRESS, HOWEVER, ALLOWS INDIAN COUNTRY TO ONCE AGAIN BE CREATED IN ALASKA, THIS TYPE OF LITIGATION WILL BECOME MORE COMMONPLACE. THIS SAME VILLAGE RECEIVES SUBSTANTIAL STATE AND FEDERAL FUNDING FOR VARIOUS PUBLIC IMPROVEMENTS, SUCH AS ROADS, FIRE ENGINES, AND SCHOOLS. THIS IS NOT AN OUT OF THE WAY VILLAGE; IT IS CONNECTED TO THE HIGHWAY SYSTEM IN ALASKA IN THE WINTER BY THE ICE BRIDGE, AND IS PERHAPS ONE OF THE WEALTHIEST OF THE VILLAGE CORPORATIONS IN THE STATE. BY PASSING THE PROPOSED AMENDMENTS, CONGRESS WOULD BE ENACTING A SYSTEM OF APARTHIED IN ALASKA.

THE INTENT OF THE SETTLEMENT ACT WAS NOT TO CREATE RACIALLY DEFINED INSTITUTIONS OR TO PROMOTE RACIAL BIAS. THE AMENDMENTS, HOWEVER, THAT YOU HAVE BEFORE YOU, WOULD CREATE THE TYPE OF RACIAL TENSIONS THAT THIS COUNTRY HAS NOT SEEN SINCE THE 1950's AND 1960's.

IT IS IMPORTANT FOR EACH OF YOU TO KNOW THAT THE ALASKAN PUBLIC, IN GENERAL, HAS HAD ABSOLUTELY NO OPPORTUNITY

TO COMMENT ON THESE PARTICULAR PROVISIONS. ONLY THE NATIVE COMMUNITY HAS HAD REAL INPUT IN THE CREATION OF THESE AMENDMENTS AND IT IS ONLY IN THE LAST FEW WEEKS THAT THE ALASKAN COMMUNITY AS A WHOLE HAS HAD AN OPPORTUNITY TO READ THE AMENDMENTS THAT ARE BEFORE YOU, WHICH WERE WRITTEN BY THE NATIVE'S ATTORNEYS THEMSELVES.

TRIBAL SOVEREIGNTY IS NOT AN ISSUE TO BE TAKEN LIGHTLY. IT IS ONE THAT HAS CREATED DIVISION IN OTHER STATES AND IS NOW CREATING DIVISION BETWEEN ALASKANS THAT IS FAR REACHING. AT ISSUE ARE SUBSISTENCE RIGHTS, THE CONTROL OF FISH AND GAME WHICH SHOULD BELONG TO ALL ALASKANS, BASIC CIVIL RIGHTS AND FREEDOMS AND RACIAL HARMONY. THIS LEGISLATION MUST NOT BE PASSED IN ITS PRESENT FORM. THANK YOU FOR THE OPPORTUNITY TO ADDRESS THIS SUBCOMMITTEE.

Senator Murkowski. Thank you, Mr. Ross.

Ms. Jacobus, I believe you have a statement?

Ms. Jacobus. Yes, I do.

Senator Murkowski. Please proceed.

STATEMENT OF CHERI JACOBUS, COUNSEL, NATIONAL RIFLE ASSOCIATION AND THE ALASKA GUN COLLECTORS ASSOCIATION

Ms. Jacobus. My name is Cheri Jacobus. I am speaking in opposition to the present 1991 amendments.

I am also an attorney. I've practiced in the State of Alaska for over 13 years. I'm opposed to the addition of certain sections; specifically Section 7(a), 7(c) and Section 14(i) to the present ANCSA.

I am also opposed to amending Section 21(d)(1) of the original ANSCA.

I'm opposed to making this particular legislation Indian legislation. One of the things that's at issue here is the collective interest of Natives versus the individual interest of Natives.

One purpose of ANCSA was the settlement of Native claims; one other purpose was to give individual Native people the right to self-determination, not tribes, not tribal sovereignty.

The shares that were created by ANCSA were clearly owned by the individual Native person and not by the group as a whole.

These amendments are a step backward to the collective interest and not to the individual interest. Why? Because they would transfer the interest of individual Natives instead to the collective group as a whole.

According to the clear-purpose language in ANCSA it specifically did not create reservations or racially-defined entities or groups. And yet now we are going backwards.

Such provisions as creating taxability of lands after 20 years, the transfer of certain lands to the village, municipal corporations recognized under state law make it clear that the original congressional purpose was not to create racially-defined entities or reservations.

We do not want to create Indian Country with its return to Native sovereignty and all the problems that have been created in the Lower 48.

Section 7(a) and Section 7(c) help to do just that. We have heard arguments from the Native community that they do not; we have heard arguments from the congressional delegation that they do not. However, I was recently present at a meeting of the Commonwealth North where Bob Anderson and Lare Aschenbrenner (phonetic) spoke—these are two attorneys that work for Native groups and are in favor of Native sovereignty.

In response to audience questions they agreed to the transfer of corporate land to IRA village councils or other village councils does make the Native sovereignty argument more plausable and make it easier to sustain in the court system.

They and Janie Leask stated to the audience that regulation was one of the goals of this ownership transfer.

Senator Murkowski, what kind of regulation are they talking about? And the obvious answer is fish and game.

Alaska is already torn apart by the subsistence issue—a problem, which I might add, was created by Congress in 1980 with the passage of ANILCA. We do not need more divisiveness in this state over the issue of fish and game.

Fish and game, according to the Alaska Constitution, belongs to every person in the state, male, female, Native and non-Native. We do not need to abrogate that constitutional provision.

If nothing else, Congress should study this legislation longer before passing it. Its effects are far-reaching. It should not be passed this year.

Clearly, there are grave differences of opinion on the effect of these amendments. And one thing to keep in mind is that when reasonable men disagree, and even attorneys disagree, it means that the court is going to ultimately decide. And I wonder if Congress really wants to abrogate its responsibility and turn over the decision on such an important issue as Native sovereignty and the control of fish and game to the court.

Congress should take clear action and not subject this state and its future to court interpretation. It is with that in mind that we are opposed to these amendments and would ask that the Congress take more time to study them and ask for the involvement of the full Alaskan community so that we can create a piece of legislation that once and for all establishes whether or not there is Native sovereignty in the State. It is a question that must be answered by Congress and should not be answered by the courts. Thank you.

[The prepared statement of Ms. Jacobus follows:]

LAW OFFICES OF
ROSS & GINGRAS
A PROFESSIONAL CORPORATION
1007 W. THIRD AVENUE, SUITE 304
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5307

WAYNE ANTHONY ROSS
THOMAS S. GINGRAS
CHERI C. JACOBUS
ALLEN M. BAILEY
DONALD J. MILLER, OF COUNSEL

April 3, 1986

Senator Ted Stevens
522 Hart Building
Washington, DC 20510

Senator Frank H. Murkowski
709 Hart Building
Washington, DC 20510

Congressman Donald E. Young
2331 Rayburn House Office Building
Washington, DC 20515

RE: H.R. 4162
S2061
Amendments to the Alaska Native
Claims Settlement Act

Dear Senators and Congressman:

We are writing to you, because the proposed amendments to the Alaska Native Claims Settlement Act (ANCSA) which you have recently introduced, have the potential for vast and far-reaching negative effects on many aspects of life in Alaska. We request that you withdraw your support for these amendments immediately.

The Alaska Native Community and its attorneys have successfully hoodwinked you into believing that the proposed amendments are innocuous and that these amendments have nothing to do with Native sovereignty. The truth is, however, that the proposed amendments *you* introduced were carefully planned by the Native Community's attorneys to achieve Native sovereignty and their introduction has been carefully orchestrated to achieve that very end!

Enclosed are copies of the internal memoranda prepared by attorneys working for the various Alaska Native organizations which absolutely establish that the purpose behind the amendments that you were given, and that you have now introduced, was to facilitate Native sovereignty.

Whereas ANCSA was originally proposed to bring Native Alaskans into the mainstream of Alaskan life and to avoid the failures of past Lower 48 Indian settlements, the result of your new proposed legislation would be to step back in time, by creating the very thing ANCSA and its drafters sought to avoid -- reservations and their concomitant racism.

The most far-reaching[1/] of the proposed amendments is the addition of § 7 to ANCSA, and the deceptively and seemingly innocent language of § 7(c) which reads:

> § 7(c) Nothing in this Act shall be construed as enlarging or diminishing or any way affecting the scope of any governmental authority of a federally recognized tribe, traditional Native counsel, or Native counsel organized pursuant to the Indian Reorganization Act, as amended, or any right, privilege, or immunity of Alaskan Natives as Native Americans in their relationship with the government of the United States.

The passage of § 7 would allow the Native corporations to transfer title to other entities including IRA tribal councils, which would result in major, destructive, and diverse changes for all Alaskans. This action, as well as the other proposed amendments deserve serious examination and input by the public at large, and not merely by Alaska Natives before Congress should consider enactment of them.

You and your colleagues have repeatedly testified that these amendments have the support of the Native Community. Significantly, you avoid any reference to Alaskans at large. This is because most Alaskans have had no opportunity to review or comment on these amendments. Such amendments should not be passed by Congress.

[1/] We are also concerned about the continued tax immunity of undeveloped land, but we believe the most important issue lies with Native sovereignty.

Contrary to statements made by you and your colleagues in Congress, this proposed legislation is not merely a housekeeping measure, and is certainly not innocuous.

One of the most serious, unresolved and heated legal issues now facing the State of Alaska and its citizens, all of its citizens, concerns Native sovereignty. In order to understand the status of Native sovereignty, it is important to look at the Alaska Native Claims Settlement Act (ANCSA) as originally passed by Congress. In the Declaration of Policy, § 2(b), Congress stated:

> (b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship . . .

Not only was the clear intent of Congress to avoid creating a reservation system or racially defined institutions or rights, but Congress went one step further and actually extinguished all reservations[2] in Alaska. With the exception of the Metlakatla Indian Community of Annette Island, these reservations were absolutely revoked.

When ANCSA extinguished all reservation lands, it set up in their place a legal framework of village and regional corporations to administer Native lands and assets. The virtual absence of reservations in Alaska in the past and extinguishment of all reservations except the Annette Island Reserve has been acknowledged as the most significant factor distinguishing Alaskan Natives from Indians in the Lower 48.[3]

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[2] Alaska only had approximately 100 reserves at any one time and it is this fact that has always distinguished Alaskan Natives from the Lower 48 Indians. Alaska has always been an integrated society.

This loss of reservation status in Alaska is very important. Inherent tribal sovereignty, at least when defined as the power to condition, regulate or exclude non-Indian persons, is territory dependent. This is perhaps the most disturbing part of your proposed amendments to the Alaska Native Claims Settlement Act. According to a renowned authority on Alaska Natives, David S. Case,[4] in his book *Alaska Natives and American Laws*, at page 447:

> Nevertheless, ANCSA did cast substantial doubt on the practical exercise of self-government. The unique feature of ANCSA is that, unlike previous and subsequent aboriginal settlements, *it severed Native land ownership from Native government*. Under other settlements an ownership interest in the land and substantial governmental authority over it were both confirmed to the tribal government. Under ANCSA, the ownership interest in the lands was conveyed in fee simple to 12 regional and more than 200 village corporations chartered under the laws of Alaska.

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[3] American Indian Policy Review Commission, Final Report, (Commission Print 1977) at 489 in 17 and comment, *The Effects of Increased Tribal and State Autonomy on the Special Relationship Between Alaskan Natives and the Federal Government: An Overview*, 10 U.C.L.A. Alaska Law Review, 183, 186 (1981).

[4] David Case was also part of the legal team which prepared the amendments you introduced.

> Although the villages were the focus of Alaska Native claims and traditional life, the aboriginal governments of the villages were not designated as the owners of the land to be conveyed under the Act. The aboriginal political claims of the villages have not been settled, but the remaining village land base is now owned by a state chartered corporation.
>
> This situation raises a number of practical and theoretical questions about the jurisdiction of a Native government over private fee lands. These lands may still be perceived as 'belonging' to the whole village, but they are now _legally_ owned, at least indirectly, by those residents of the village (and others) who are corporation shareholders. (Emphasis added)

The amendments which you and your colleagues have recently introduced would allow each of the privately owned regional corporations to transfer the land holdings to the IRA "tribal governments". This would give the advocates of tribal sovereignty the last nail with which to nail in the coffin to achieve their goals.

Your proposed amendments would first change, in a major way, the purpose of ANCSA. Regardless how you want to characterize your amendments, they would change a basic principle. The basic principle was that the ANCSA settlement was to settle _all_ Native claims in Alaska. It was the largest land settlement negotiation with an American-Native population in the United States history. It involved the selection and transfer of over 40,000,000 acres of Alaska land and payment to Alaska Native groups of $962,500,000. It extinguished all reservation lands with one exception. Its specific purpose was to avoid creating a reservation system and to avoid establishing any permanent racially defined institutions or creating any racially defined rights or privileges. Your § 7(c) in conjunction with the other changes (§ 7(a), (b)) to the Alaska Native Claims Settlement Act, which would permit the privately held corporations to transfer ownership of the lands back to these IRA councils, would, in one act, create tribal sovereignty. To believe otherwise is naive.

These proposed provisions which you have now introduced into Congress were prepared by the Native organizations and their attorneys. You have received no input from the Alaskan citizens, as a whole. You must not forget that the Alaskan population is comprised of more than just Alaskan Natives. More importantly, you should remember very clearly what Native sovereignty really means. It is not just a figure of speech or an intellectual exercise. The following is an example of the type of thing that you will see proliferate in the State of Alaska if you pass this type of legislation:

Presently the case of the Village of Tyonek v. Puckett, Civil No. A82-369, is being considered in the United States Federal District Court in Anchorage. This case should scare you! The Village of Tyonek passed an ordinance which specifically prohibited "white men" from living within its boundaries and specifically prohibited tribal members from renting houses to "white" men and women! The Native village went to Federal District Court to evict and permanently enjoin white people from living in the village of Tyonek and to enjoin Native members from renting to whites! This village receives substantial State and Federal funding for various public improvements, such as roads, fire engines and schools. The tribal council members testified that their sole purpose in passing the new ordinances was to exclude all non-Indian people from the boundaries of the Tyonek village.

Some members of the Native community wanted to rent housing to white people. They likewise were brought into the lawsuit by the Village.

While you and your colleagues claim that § 7 of your proposed amendments would not affect tribal sovereignty, the fact is that this particular amendment would effectively moot the issues of the Tyonek case, and allow Tyonek, and other villages free rein to enact such outrageous ordinances.

While the Defendants, including many Native members of the Tyonek village, have argued specifically to the Federal District Court that the Alaska Native Claims Settlement Act extinguished all aboriginal claims and reservation lands in Alaska and thereby extinguished any tribal sovereignty, your proposed § 7(c) would eradicate that argument.

Likewise, the Natives themselves recognize the effect of ANCSA. Attached hereto is a copy of a memorandum prepared for the American Native Rights Fund by Bob Anderson and Lare Aschenbrenner. The Memorandum is dated September 7, 1985. The subject is Indian country jurisdiction. On page 9, Aschenbrenner and Anderson, two attorneys who authored, or at least worked on the proposed amendments which you and your colleagues have now introduced, stated that "the argument will undoubtedly be made that to use ANCSA lands to establish the boundaries of dependent Indian communities would run afoul of ANCSA, in that defacto reservations would be created."

Likewise, on page 12, the writers recognize the problems created by ANCSA in which land ownership was severed from tribal government. They recognize that land ownership has always been relevant in cases involving non-Indian hunting and fishing in Indian country and that in Alaska, most of the land is held by State chartered corporations. Your amendments to ANCSA would "solve" this particular issue for them and create a springboard for the argument in favor of Native sovereignty.

Likewise, in a memorandum dated August 22, 1985, (a copy of which is attached) which was prepared for AVCP and Calista, Aschenbrenner and Anderson stated at page 3 in support of § 7(c):

> State officials have long contended that the passage of ANSCA [sic] somehow terminated or at least greatly reduced the Governmental power of Alaska Native Tribes. The above three paragraphs would eliminate the State's contention. With the exception of the provision reinstating secretarial authority to proclaim new reservations of Paragraph 2, all three of these paragraphs reaffirm the status quo of Tribal government as it existed prior to the enactment of ANCSA. These provisions may be incorporated into ANCSA by adding a new paragraph following 43 U.S.C. 1601(c). (Emphasis ours)

The point is that you and your colleagues have naively introduced amendments to the Alaska Native Claims Settlement Act which would grossly alter the intent of the original Act which was to be a full settlement of all Alaska Native claims.

Your amendments, instead, would support Alaska Natives' claim to tribal sovereignty. As is demonstrated by the Tyonek case currently being considered by the Federal District Court of Alaska, the results to Alaskans would be disastrous. The intent of the Settlement Act was not to create racially defined institutions or to promote racial bias intentions. The amendments that you and your colleagues have introduced would create the type of racial tensions that this country has not seen since the 1950's and 1960's.

As you know, tribal sovereignty is not an issue to be taken lightly. It is one that has created a division between Alaskans that is far-reaching. At issue are subsistence rights, the control of fish and game which should belong to all Alaskans, basic freedoms, and racial harmony.

DO NOT PASS THIS LEGISLATION IN ITS PRESENT FORM.

At the very least, sections, § 7(a), 7(b) and 7(c) should be removed from the legislation. Better yet, no amendments should be passed until there has been a full opportunity for all Alaskans to review, comment, and participate in public hearings. Any amendments should conform with the original intent of ANCSA and should address all the issues.

Very truly yours,

ROSS & GINGRAS, P.C.

CHERI C. JACOBUS
Attorney at Law
Chairman, District 10
Republican Party

Wayne Anthony Ross

WAYNE ANTHONY ROSS
Attorney at Law
Chairman, District 8,
Republican Party

CCJ:WAR:ell
Enclosures

Senator **Murkowski**. Thank you very much, Cheri Jacobus.

I think the issue of fish and game management access which you brought up is one of a great concern to all Alaskans.

I would ask any member of the panel to comment on the issue of private land as it is addressed under the 44 million acres that are controlled by the regional and/or village corporations and the right of that privacy as compared to the constitutional provision which under our State constitution states that the fish and game is available to all Alaskans, with the specific provision of subsistence. But leaving that aside, the legislation did address itself to subsistence whether you agree with it or not. I'm more concerned with the realization that we have private land as it exists and the authority of the private land-holders to restrict the land. Yet we also have covenants concerning access to that land.

And as Alaskans reflect on this legislation and what it does to the fish and game, you have already pointed out the concern for sovereignty. And obviously that is a concern that we all have, that if, indeed, this legislation could provide a bridge toward sovereignty with the end such as you suggest.

Would anyone care to address this?

Ms. **Jacobus**. I would like to point out a couple of things. Obviously, people who own property in private hands, they can regulate who can and who cannot go on to their land to trespass. The one thing they cannot do, and the most important part of this provision is, they cannot regulate such things as bagging, how many animals can be taken, the seasons during which they can be taken.

The actual regulation of the fish and game resource is the resource that belongs to all of us. It is not the land itself.

So what we're talking about here and the real difference is that on private land, where you can regulate who can come on and off your land, you cannot regulate the resource.

If, in fact, this creates tribal sovereignty, which we believe it will—and which, by the way, the Native community, despite what's being said, knows that it will, and their own attorneys are telling them that it will—then what happens is instead of just regulating access and allowing them to issue permits for entering their land—which is the real interest that they have here, they will instead be able to regulate the resource, and was testified by the sportsfishing people.

We're talking about not just sports fishermen, but we're really talking about the extinguishment of our resource.

Resources need to be administered and regulated by one entity. And, in our view, that entity is the State. The feds sometimes have a difference of opinions on that, but we believe the State should regulate its own resource and not various sovereign groups. And that's why we are opposed to this.

Senator **Murkowski**. Let me ask the next question. The provision which transfers assets to other entities is the provision that one could extend to sovereign status. In your opinion, do you think it's appropriate that the corporations have the right to change their status, and if corrective legislation can be attached to address the issue of sovereignty, would that give you adequate comfort?

Ms. **Jacobus**. There are two things I'd like to respond to. First, that is not the only provision which would allow an argument that would be in favor of tribal sovereignty. It is arguable with those provisions which allow tax-exempt status in perpetuity to also be an argument in favor of trial sovereignty. But that is one of the attributes of being a sovereign entity.

Senator MURKOWSKI. With regard to taxation, it is considered that if the land was revenue-producing it would be subject to taxation from whatever State authority existed.

Ms. JACOBUS. That's true, but there's also a provision there which allows their shares can be voted, and revenue from those shares can be voted in tax-exempt in perpetuity if the corporation so desires.

Now I would like to answer an earlier question. I don't know that the NRA would agree with me about this. But I think that it's very clear.

If there was a statement attached to this legislation that the transfer of ownership to the village corporation or the village—excuse me—the village council or the IRA Council does not create Indian Country, if it's a very clear statement, and, therefore, does not enhance the argument in favor of tribal sovereignty and that's in the legislation, then I don't think I would have any problem with it at all.

Mr. ROSS. Senator, if I could just add something here.

Senator MURKOWSKI. Mr. Ross.

Mr. ROSS. You indicated that if the land is revenue-producing then perhaps it ought to be taxable. And I do find a problem in that.

If you're going to tax developed land, then you're going to give the Native people breaks on taxes on undeveloped land, I think then you ought to be very careful on your legislation and don't make it if the land if revenue-producing.

I do see situations where in the future Native peoples may take visitors, other Alaskans, other people from the Lower 48 out hunting on Native lands—I think they do it now for musk ox, for example—and they may take people on fishing trips and set up camps, etc; these types of trips would be very beneficial to visitors and would produce revenue. And if you take someone to a particular lake and you charge them money, that land, I suppose, is revenue-producing and, therefore, by the mere fact that the Native peoples may take others to a hunting camp or fishing camp they're producing revenue and their land may become taxable. And I think you should be real careful on how that legislation is drafted so that you don't preclude people from being taken on Native lands for hunting and fishing.

In Wisconsin, where I came from originally, many farms are leased out for hunting purposes. They produce revenue that way. And you certainly wouldn't want the Native people, if you're going to give them a tax-exempt status, to lose that tax-exempt status merely because they're leasing out some hunting rights or something.

Ms. JACOBUS. There are also two other problems with the provision as it now stands on the taxation. One of those is that the way undeveloped land is defined, you have really created a lawyers' haven. I look forward to many years of work just working in that area, because really, only God is going to know, and ultimately the courts' going to know what you mean by "undeveloped," because it's not strictly undeveloped land.

But the other problem that you have—and from your background in the banking institutions, you realize that many times undeveloped land is used as collateral for revenue-producing other things on which we have loans.

Now, the way it's written, and we heard this the other day in the Commonwealth North, it is unclear whether or not land that's used as collateral which is undeveloped later could be attached and subject to a judgment in court. Because the way that thing is written right now, it says that you cannot force judgments against undeveloped lands.

So if you are going to create a tax-exempt status for undeveloped lands, then you should make it very clear that if the land is collateral for a loan that that is not subject to this prohibition against judgments.

Senator **MURKOWSKI**. Well, I don't know that Congress, with the help of counsel, could make any legislation tight enough to assure that it wouldn't stand the scrutiny of another attorney. And my experience in the banking business is no exception to that. I do agree with you, though, that you can take a lot of the exposure out of it.

I want to thank you. And, again, I would remind you that if you have any further submissions, the record will be open for 30 days. We appreciate your testimony and we wish you a good day.

Panel 7 will be Judy Ramos, Yak-Tat-Kwaan Village Corp.; Ron Philemonof, President, Tanadgusix Corp.; Jacqueline Guzialek, President, along with Paul Blank, Director, and Bob Rude, Cook Inlet Native Association.

We're looking forward to hearing your testimony. You may proceed in any order you wish. We have Judy Ramos first. You may proceed, Judy.

STATEMENT OF JUDY RAMOS, YAK-TAT-KWAAN VILLAGE CORP.

Ms. **RAMOS**. My name is Judy Ramos from the Yak-Tat-Kwaan Village of Yak-Tat, Alaska.

The Yak-Tat-Kwaan, Inc., is concerned about a couple of items in the proposed legislation. First and foremost, we feel the provision that only 51 percent of the quorum of 50 percent of the outstanding shares of the corporation is sufficient to move the restrictions on the sale—if the stock is too low, we feel that the legislation should at least provide that in order to remove the restrictions that 50 percent plus one of the outstanding shares of the corporation must vote in favor of removing restrictions before these restrictions is removed. To remove the restrictions will be a major decision for the corporation. Once there is a vote to remove the restrictions, the restrictions cannot be put back in place, there will be no second chance for the shareholders to change their mind.

To provide that basically only 25 percent of the shareholders can make such an irrevocable decision is a mistake. For example, a shareholder meeting could be called at a time of the year when it is difficult to obtain attendance of the meeting either in person or by proxy of any more than 50 percent of a minimum quorum. In these circumstances, a determined minority could force the corporation into making a decision that the majority would not make, because of fishing seasons or other seasonal matters, were not able to have their views properly reflected at the meeting. And once the decision is to remove the restrictions on sale, there's no chance for reconsideration.

This problem can be avoided by having a higher voting requirement for the removal of the restriction on sale or transfers.

In addition, there are provisions within the proposed legislation which refer to the 7(i) litigation and the settlement entered into by the regional corporations. Yak-Tat-Kwaan is concerned about the relationship between the village corporation as subsurface owner with regard to sand and gravel. These issues have not been resolved by the courts. In order for a surface owner to be able to develop his land either as subdivisions, timber sales or for any other type of development, he must be able to use the sand and gravel.

At present, some regional corporations have taken the position that village corporations must pay for the sand and gravel use in connection with the surface development of the road surface estate, and in the future may take the position that a surface owner cannot use the sand and gravel to develop the surface regardless of how much money the surface-owner is willing to pay.

The present position of some of the regions lends itself to all surface development of the village corporations unless the village corporation either for political reasons or economic reasons obey the dictates of the regional corporation whatever they may be.

We recommend that these problems must be resolved and recognize that it's unlikely that Congress will resolve these problems since there is a split in the Native community in Alaska as to how this problem should be resolved.

We only ask that in the 1991 legislation that Congress not ratify the 7(i) Agreement among the regional corporations, to the extent that it involves the sand-and-gravel issue; thus, making it more difficult for the villages to make economical and political independence.

This can be accomplished by proper legislative history or legislative——

Senator MURKOWSKI. May I ask that you conclude your statement.

Ms. RAMOS. Okay. The proposed legislation also provides for mechanism by which the subsurface estate may convey to the surface owner as a mechanism for protecting culture or subsistence land. We request there be a legislative history specifying that this is not the only way in which the subsurface estate may be transferred to the surface owner.

We believe further legislation should be that the regional corporation has a right to sell or make other arrangements concerning subsurface with surface owners.

Mr. MURKOWSKI. Thank you. I would remind the witnesses that your entire statement will be entered into the record as if read. So when I cut you off, don't assume that your entire statement will not appear in the record, it will, just as if it were read. That's why I have no hesitation about cutting you off.

Our next witness would be Mr. Ron Philemonof, the Chairman of the Tanadgusix Corp. Please proceed.

STATEMENT OF RON PHILEMONOF, PRESIDENT, TANADGUSIX CORP.

Mr. **Philemonof**. I'm Ron Philemonof, the Chairman of the Tanadgusix Corp., one of 200-plus village corporations in Alaska.

I speak in favor of the amendments to the Alaska Native Claims Settlement Act known as the 1991 legislation, despite my beliefs that the amendments do not go far enough to ensure protection of what little Alaska Native people have left.

In 1950, the Aleut people stayed involved, filing for our rightful claim to all the land in the Pribilof and on behalf of our Aleut families in the Aleutians, all the land in the Aleutian Chain. Our claim was filed in the Indian Claims Court as the recognized Indian tribe organized under the Indian Organization Act, titled the IRA.

The Indian Claims Court has since ruled that our Indian lands claim has been settled by ANCSA. Therefore, we say ANCSA is in the legislation enacted by Congress pursuant to its preliminary authority under the Commerce clause to regulate Indian Affairs.

So we say you Americans, with your hunting and fishing clubs, your hold-overs, your real estate companies, you can call ANCSA whatever you want, but it's still Indian legislation.

It is correct that ANCSA states in its declaration of policy, Section (b), the settlement issue is accomplished without establishing any permanent racially-defined institutions without creating a reservation system or lengthy wardship.

We, the Native people of Alaska, have no problem with this language. We saw no need for ANCSA to establish or to create new racially-defined institutes, rights or privileges. We saw no need for ANCSA to create a reservation system or lengthy wardship.

The Native people has had for hundreds of years before the immigrants arrived on their shores racially-defined institutes, rights and privileges. We have our own forms of traditional governments. And some of us, like the Village of St. Paul, has reorganized under—reorganized our traditional government under the Indian Reorganization Act, IRA, to ensure better relationships with the U.S. Government.

Our villages, to this date, still maintain their traditional form of government, which is not created or diminished by ANCSA.

So despite what some high-powered lawyers, tax collectors or some organization representing Alaska, the great white hunters may be telling us, ANSCA and the 1991 amendments do not deal with sovereignty. It only deals with the land settlement and stock protection.

Sovereignty is another issued covered by some other act, some other legislation or other court cases throughout the United States.

ANSCA was to provide us with the opportunity, the right to continue self-determination. However, throughout the years, special interest groups have pushed for numerous pitfalls to ensure our failure and, in fact, to result in termination rather than in self-determination.

It is now 15 years later, as DOI stated. We now see these pitfalls. The 1991 amendments must be amended and passes in its entirety now if ANSCA is to meet its intent.

Congress must recognize the overwhelming problems the village corporations are facing. If you were to spend some time in the villages, you will see the failure of ANSCA, it does not work in the villages. Thank you.

Senator **Murkowski**. Thank you very much.

Our next witness is Jacqueline Guzialek, President, Cook Inlet Native Association.

STATEMENT OF JACQUELINE GUZIALEK, PRESIDENT, COOK INLET NATIVE ASSOCIATION

Ms. **Guzialek**. My name is Jacqueline Guzialek. I am the President of Cook Inlet Native Association.

Of the eight amendments, the only one that is clear and that we can offer support to is the amendment on issuing stock to Natives born after 1971. Our children have just as much right to their land as we do.

The stock for the children should be distributed the way that we are currently doing for registered shareholders now. The fact that this will lower the value of our stock is something that must happen, for there is no where else to obtain the stock.

Cook Inlet Native Association represents 3,400 members in the Anchorage area and outlying villages. Many of our members feel that they do not understand what the Alaska Federation of Native amendments are about, and feel that they have received limited information from their regional corporations.

An example of that is that I have a membership application that says: Please send me information on your bazaars and any information on Land Claims Act. It's hard to get information from my corporation.

I would like to know what's being done for our kids that were born too late for the land claims?

They feel that the amendment should be written in simple language so that they can understand just what they stand to lose or gain if the amendments pass.

They complain that they have received so little from the Claims Act because so much has gone out to attorneys, over 55 percent is what they figure.

It does not seem that the Claims Act has worked for the good of our people, and nothing has improved in our lifestyles.

Our people still want the right to hunt and fish on their land as they have for centuries. In fact, just recently, Cook Inlet Region, Inc., was declared a tribe for the Anchorage area in December. And Cook Inlet Native Association, that has delivered services to the Natives of the Anchorage area for 22 years, does not now have status to obtain self-determination monies. Yet, for a profit corporation, whose ownership can be opened to anyone of any race after 1991, if some of these amendments do not pass, is a tribe for the purposes of Indian self-determination.

This is confusing to us. And we feel the Land Claims has hurt us instead of helping us.

Due to the wide disagreement between our people, it's best that these amendments do not pass this year so that we will have ample opportunity to submit our positions on the amendments—not from just AFN, but from villages and organizations such as Cook Inlet Native Association who represent the people. Thank you.

Senator MURKOWSKI. Thank you.

The next witness will be Mr. Paul Blank, Director, Cook Inlet Native Association.

STATEMENT OF PAUL BLANK

Mr. BLANK. Good morning, Senator. My name is Paul Blank. I'm an Aleut. I thank you for putting me on the panel with CINA and CIRI, because I resigned from the Board of CINA as effective May 20.

It seems to me that you, as decision-makers, and by chance, arrived at a point in history where your decisions could have one of two results; one, your wisdom can contribute to the survival of the Native people of Alaska, or your lack of wisdom and/or understanding may be a foremost reason for the destruction of our people.

I come here to speak in opposition to S. B. 2065 and its companion House bill. My opposition could easily change to support if this bill is altered to reflect the real needs of our people.

The issues which must be heard and implemented are well stated in—and don't need to be restated by me—in the proposed legislation by the Alaska Native Coalition and the report by Judge Thomas Berger entitled Village Journey: The Report of the Alaska Native Review Commission.

I refer you all to these writings and I pray that somehow your colleagues in Congress will read them. I hope that for the sake of the survival of my people that you don't put too much credence in the corporate lobbiests for AFN, Inc. Their concern is for the survival of the corporations, as it should be, but unfortunately not for the survival of our people.

The only commission that has ever taken the time and spend the energy and money to find out what our people thought is Justice Berger and the Alaska Native Review Commission, which he headed.

The Commission, in addition to taking testimony and holding round-table dicussions in Alaska's urban centers, went to over 60 of our villages in addition to a number of fish camps.

This process took two years. And the real concerns of Alaska Natives came forth during these hearings, and the overwhelming concerns were, which was surprising to some, uniform: protection of the land and subsistence in perpetuity.

I again pray that you read and implement the proposed solutions to these concerns as outlined in Village Journey and put forth by the Alaska Native Coalition.

Our people have spoken, and all we ask is that you listen and take the necessary correction action to assure us of our rights as the "first people," especially the right to survive under our age-old laws and forms of decisionmaking, which has proven over time to be worthy and necessary for our survival.

S. B. 2065 as written, would seem to be more complicated than ANCSA Attorneys are arguing already over the meaning of the legislation. And I think that this in itself may speak in favor of the bill.

The village people have tried to understand it, and like the attorneys, to little avail. When representatives from AFN, Inc., including the President, Janie Leask and AFN attorney, Don Mitchell, went to some Yup'ik villages, the represented villages told them in no uncertain terms that they wanted little, if anything, to do with the AFN, Inc., amendments to ANCSA.

These amendments appear, to me at any rate, to set the stage for final termination of Alaska's Native people, as written. The same concerns are being voiced in many places in Alaska.

In summary, the Alaska Natives should not be discriminated against relative to tribes in the Lower 48. We need to be assured in no uncertain terms that we have the same rights and the same protections as our tribal equals in the Lower 48.

We need for you to reaffirm by law our tribal status as Native peoples with our own governments and our own laws.

We are not asking for anything more than what we're entitled to—and, in fact, without question, already exists in Alaska for the Metlakatla tribe.

Some people within the State of Alaska would have you believe that we're asking for racially-defined governments that are out to destroy Alaska's fish and game by some devious means. What we have a right to, again, is the same as other tribes outside and the Metlakatla tribe here in Alaska have and which we need to survive.

Our government status and membership is politically defined, not racially defined. When it comes to fish and game, for example, joint and sole management has been working for years with other federally-recognized tribes and, at any rate, the goal of the species is always the primary concern and almost always provided for by statute.

Please don't make decisions which future generations of Americans will look back on with guilt and horror. Please make decisions which will allow future generations to look back with pride.

If our identity as a people is destroyed, you will have killed a part of yourselves as well.

Mr. **Murkowski**. I would ask that you summarize your remaining statement, please.

Mr. **Blank**. Sure. That's basically it. That's all I really have to say. Thank you.

[The prepared statement of Mr. Blank follows:]

May 27, 1986

Good morning and welcome to Alaska. My name is Paul Blank; I am Aleut. I thank you for taking the time to listen to us and pray that our concerns will be heard. It seems to me that you, as decision makers, and by chance, arrived at a point in history where your decisions could have one of two results: your wisdom can contribute to the survival of the Native peoples of Alaska, or your lack of wisdom and/or understanding may be a foremost reason for the destruction of our people. I come here to speak in opposition to SB 2065 and its companion House bill. My opposition could change to support if this bill is drastically altered to reflect the real needs of our people. The issues which must be heard and implemented are well stated in the proposed legislation by the Alaska Native Coalition and the report by Judge Thomas R. Berger entitled Village Journey: The Report of the Alaska Native Review Commission. I refer all of you to these writings and pray that you will somehow get your colleagues in Congress to read them. I hope that for the sake of the survival of my people, you don't put too much credence in the corporate lobbyists for ANF, Inc. Their concern is for the survival of the corporations, as it should be, but unfortunately, not for the survival of our people. The only commission that has ever taken the time and spent the energy and money to find out what our people thought is Justice Berger and the Alaska Native Review Commission, which he headed. This Commission, in addition to taking testimony and holding round table discussions in Alaska's urban centers, went to over 60 of our villages in addition to a number of fish camps. This process took two years. The real concerns of Alaska Natives came forth during these hearings and the overwhelming concerns were, surprisingly to some, uniform: Protection of the land and subsistance in perpetuity. I again pray constantly that you read and implement the proposed solutions to these concerns as outlined in Village Journey and provided for in the Alaska Native Coalition's proposed legislation. Our people have spoken and all we ask is that you listen and take the necessary corrective action to assure us of our rights as the "First People," especially the right to survive under our age old laws and forms of decision making, which have proven over time to be worthy and necessary for our survival.

SB2065 as written would seem to be more complicated than ANCSA. Attorneys are already arguing over the meaning of this legislation, and I think this in itself may speak in disfavor of the bill. Village people have tried to understand it and like the lawyers, to little avail. When representatives from AFN, Inc., including AFN President Jeanie Leask and AFN Attorney Don Mitchell, went to a gathering of some Yup'ik villagers, the represented villages told them, in no uncertain terms, that they wanted little, if anything, to do with the AFN, Inc., amendments to ANCSA. These amendments appear to set the stage for final termination of Alaska's Native people. The same concerns are being voiced in villages in every region of Alaska.

In summary, Alaska Natives should not be discriminated against relative to tribes in the Lower '48. We need to be assured, in no uncertain terms, that we have the same rights and the same protections as our tribal equals in the Lower '48. We need for you to reaffirm, by law, our tribal status as Native peoples with our own governments and our own laws. We're not asking for anything more than what we're entitled to, and in fact without question already exists in Alaska for the Metlakatla tribe. Some people within the State of Alaska would have you believe that we're asking for racially defined governments that are out to destroy Alaska's Fish & Game by some devious means. What we have a right to, again, is the same as other tribes outside and the Metlakatla tribe here in Alaska have and which we need to survive. Our government status and membership is politically defined, not racially defined. When it comes to Fish & Game, as an example, joint and sole management has been working for years with other federally recognized tribes and, at any rate, the goal of the species is always the primary concern and almost always provided for by statute.

Please don't make decisions which future generations of Americans will look back on with guilt and horror. Make decisions which will allow future generations to look back with pride. If our identity as a people is destroyed, you will have killed a part of yourselves as well. The forces of history have brought all of you to a vital place in history regarding Alaska Natives. We have less than ten percent of our Alaska lands left after ANCSA and even the loss of some of these ANCSA lands has now occurred. Encroachment has already begun to destroy some tribes. People who hunt and fish for sport, in spite of ANILCA, are competing with our spiritual, cultural, and nutritional right to the fish and game which have sustained us for countless generations. Regulations which sharply conflict with our laws are having a genocidal effect upon our people and these laws and regulations are becoming stronger and more heavy handed. Please read the testimony and implement the solutions. Do what's right not just what's expedient. All Alaskans will be spared from the terrible racial hatred which can and probably will occur in the absence of the morally right solution. All Americans will be proud of you and all Alaska Native tribes will speak your names in our oral and written history with love and respect for countless generations. Thank you and may God grant each of you the moral wisdom to do what is right. God bless each of you.

Paul R. Blank

Paul R. Blank
P.O. Box 103922
Anchorage, Alaska 99510-3922
Work Phone: (907) 272-9431

Mr. MURKOWSKI. Mr. Bob Rude will be our next witness from the Cook Inlet Native Association.

Mr. Rude.

STATEMENT OF ROBERT W. RUDE, SHAREHOLDER, COOK INLET REGION

Mr. RUDE. Senator Murkowski, my name is Robert W. Rude. I am a shareholder in the Cook Inlet Region. I am submitting testimony against the AFN amendments proposed for 1991, because the legislation has not been approved by the Native shareholders.

As a CIRI Director, I have spoken to many CIRI shareholders, and very few of them understand the AFN amendments.

Shareholders are unaware of the possible effects the AFN amendments could have on their stock values and shareholder rights granted them under existifg laws.

I believe the corporations should send copies of proposed legislation to each of their shareholders, and there should be simple explanations of each section of the legislation with comments on how this legislation affects existing shareholders rights and stock values.

After full disclosure has been made by the corporations to the shareholders, there should be a vote by them to approve or reject the AFN amendments.

It is my recommendation that the AFN legislation not be acted upon by Congress until the legislation is brought before the Native shareholders and approved by them with an affirmative vote of 66 and two-third's percent.

I believe the AFN amendments violate existing laws and constitutional rights granted Alaska Natives as corporate shareholders and as citizens of the United States.

Section 2(d) of ANCSA stated: Natives would have maximum participation in decisions affecting their rights and property. Section 2(c) stated: No provision of ANCSA would replace or diminish any right, privilege or obligation of Natives as citizens of the United States or of Alaska, or relieve or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska.

I believe the AFN amendments violate these provisions and other provisions in ANCSA. I believe the AFN amendments violate our Fifth Amendment rights, our rights granted under Article 14 of the Bill of Rights and other rights given us under state and federal laws.

I question AFN's right to introduce legislation that pit the value in individual stock and take away rights granted them as a shareholder or as a citizen of the United States.

AFN is not a shareholder under ANCSA and its does not own any stock. The stock is owned by individuals, and I believe each individual should be given the freedom of choice to accept or reject AFN's amendments before they are considered by Congress. Thank you.

Senator MURKOWSKI. Thank you. Would you explain for the record your interpretation of the representation of the shareholders of CIRI were not necessarily represented in the manner in which the AFN resolution was presented. Didn't these resolutions occur in the convention of the AFN at which your cooperation was represented?

Mr. RUDE. AFN had a convention, and there was a select few that was there representing certain segments. An example at CIRI, I am a Director of CIRI. There was five of us there. The majority was going to call the shot and vote as a majority for Cook Inlet Region. I expressed desire against them, and was basically for what I just read here.

And as a shareholder of Cook Inlet Region, we have never received a copy of this legislation to date. And I think that all corporations should send copies to their shareholders and let them know what it's all about.

Senator MURKOWSKI. Was this a case of just a kind of majority rule.

Mr. RUDE. Yes, it was.

Senator MURKOWSKI. So you were in the minority?

Mr. RUDE. I'm a minority.

Senator MURKOWSKI. Well, don't feel lonesome, I've been there many times myself. [Laughter.]

I'd like to ask Jackie Guzialek of Cook Inlet, what would be the impact on Alaska Natives, in your opinion, if no legislation were passed?

Ms. GUZIALEK. I don't think anything would happen right now.

Senator MURKOWSKI. Well, in 1991 the stock will be transferrable.

Ms. GUZIALEK. Well, I haven't said that we don't want to work on this before 1991. We would like to see it extended by possibly five years or ten years from 1991, but not for 20 years.

And the reason for this, Senator Murkowski, is——

Senator MURKOWSKI. It's indefinite now——

Ms. GUZIALEK. Yes, right.

Senator MURKOWSKI [continuing]. The option of the corporations.

Ms. GUZIALEK. What we're concerned about, too, is how many of our corporations have gone bankrupt right now or are heading towards bankruptcy, or how much is going to be left. My mother died two months ago, and at that time she saw that $9,000 of what she suffered for, and that I feel, you know, that we need to look out for our elders, too, as we're speaking about this legislation.

Senator MURKOWSKI. Let me ask you, Ron, have you had a chance to discuss with your shareholders whether they would be receptive to transferring their assets to a new entity, basically giving up whatever the value of that share was for an entity that would take care of those born after 1971 and keep the unique tribal association which the villages are so dependent on, and make it permanent and lose the corporations?

Mr. PHILEMONOF. Yes, we have had several discussions at some of our annual meetings and individually with shareholders. The feeling I get from the shareholders is that the pride of the community and the pride of belonging to a group seems to override the individual's rights.

Senator MURKOWSKI. That's a tribe, that's tradition.

Mr. Philemonof. That's a tribe and that's a community. Tribe is a Lower 48 term that's applied to us. We see that there is purpose for a corporation, but it should not be the overall guardian of our land and our community. We have the traditional IRA council in our community and we feel there is a part for them to play. So we're trying to work together. We can do it now without the ANCSA amendments apparently, but it's a lot more red tape. With the ANCSA amendments, it would be a lot easier for us to go through loopholes and procedures to protect the land and to issue stock to maybe another generation.

Senator Murkowski. Well let me ask you this: If you or in your case, your village, pursued the transfer of the assets to other entities, would you propose to manage the fish and game in that entity?

Mr. Philemonof. I don't think we would propose it at this time. We probably would propose a cooperative. We do have some cooperative arrangements with the Federal Government in where we jointly set up some regulations on some of the small reserve. So we do work with the Federal Government in trying to cooperate, but at this point we don't try to supersede or override their regulations.

Senator Murkowski. Would you consider achieving a structure of Indian Country, per se?

Mr. Philemonof. Not the full context I don't think so, but I think there is some things that do apply to Indian Country that should be allowed here in Alaska. For example, the alcohol problem in the community can be addressed through Indian Country regulations. However, the state of Alaska is afraid that once you implement Indian Country regulations in Alaska, you open the door to everything else. So we can control alcohol problems in our community if the tribes were—communities were allowed to implement regulations that go beyond the scope of the state regulations. So there is benefits of Indian legislation and Indian Country. But that needs to be hammered out, I think, through the further enactment of legislation, or court cases, if they're afraid to touch it through the legislation process.

Senator Murkowski. Thank you. I have no further questions for the witnesses. I excuse panel 7. Have a good day. Thank you very much.

We now have panel 8. Dale Bondurant, President of Eagle River Sportsman Game Association; Ann Barker, accompanied by Sid Omlid, Kodiak Setnetters Association; Noel Woods, Matanuska Valley Sportsmen.

I think it's probably appropriate to mention this now because I see that most of the attorneys have left the room, and this will be of interest to all of us who are not attorneys. I'm going to ask, through the cooperation of the subcommittee chairman, Senator Malcolm Wallop, that we have the American Division or Law Division of the Congressional Research Service, write what ANCSA is, what it does, what the amendments do in plain, simple, layman's English—not lawyers' language. It will be distributed and available through our office to all who want it so that you don't have to ponder what Section 7 paragraph 12 means, it will say so. And hopefully it will be plain enough that you will get some insight from it and not have to watch the clock tick.

Dale Bondurant, please proceed.

STATEMENT OF DALE BONDURANT, PRESIDENT, EAGLE RIVER SPORTSMAN GAME ASSOCIATION

Mr. **BONDURANT**. Thank you, Senator.

I believe that ANCSA was a moral and legal obligation to confer lands and payment to assure that the Alaskan Natives become full participants in our society and government, land ownership and cash economy. It was a good and generous settlement.

The high goal of ANCSA was to recognize all Alaskans as equal individuals under the law. This was bound to lead to a mutual respect among the people of the state.

ANILCA, in effect, defeated this high goal of equality and mutual respect and drove a huge wedge among the people of Alaska.

ANCSA, by extinguishing the aboriginal hunting and fishing rights, recognized the valuable fishing and game resources of Alaska as available to the common use of all Alaskans.

But ANILCA, by amendment, reversed this equality to a priority right to a small percentage of Alaskans. The division is now apparent and disasterous.

I see the 1991 amendment again as a special interest decision that benefits only Alaska Natives and at the expense of the non-Natives and further drives a wedge by attempting to extend the intended division in the recognition of Alaska people.

They are special interest attempts to protect and project these special interests into the future. This is in opposition to the high goals of ANCSA in uniting Alaskans through individual equalities.

There's two sections that I'd like to address of the amendments. One is the Section 7. I am of the opinion that this is an attempt, and is the last of a long line of attempts to get the sovereignty. If there is no value to this section as far as concerns and that go, why don't we just take and reinstate Section 2 of ANILCA. Why do we have to come out with something that, in effect, everybody's sitting here, Senator Stevens and the Native community says this is just a reiteration of Section 2. I don't think it is. I think it's an attempt to, in fact, state that that's what ANILCA says.

The other is concerning the land and its taxation. I think the approach of this has been to tighten this situation of corporate ownership with that of public ownership, the borough. I think we're on the wrong avenue.

First, in the land banks. In land banks' situations that we have in the United States, when you put the land in a bank to get rid of the threat of taxation, it is for the public benefit, not for an entity such as a corporation. If they want to put this land into a bank to keep it from taxation, then the public must be given the right to use this land, too, because they are furnishing the taxes that control our government.

Senator **MURKOWSKI**. I would ask you to summarize your remaining statement.

Mr. **Bondurant**. Okay. The same applies to the actual taxation itself. If you're going to compare this with a borough haven't so-called subsistence lands—and I'm glad to see Senator Stevens say this, because it's sure counter of what they say about our right to priority subsistence—if there's subsistence lands in this Borough of Anchorage, and we live on these lands, then we're not subsistence hunters, because we are members of this borough. So I think there's a little there that is counter with, you know, looking at something. So I thank you. And I have submitted my full statement.

[The prepared statement of Mr. Bondurant follows:]

United States Senate
Subcommittee Addressing Amendments
of Alaska Native Claims Settlement Act
Senate Bill 2065

Honorable Senators

I, as did a majority of all Alaskans, supported the need and obligation of the Alaska Native Claims Settlement Act. I believe that there was a moral and legal right to assure that Alaska Natives be conferred land and payment so as to become full and equal participants in our society of land ownership and cash economy. I believe this Settlement was fair and generous, in it purpose to establish an equality among the peoples of Alaska. It is only thru such equality that the mutual respect can develope and grow among peoples.

But since ANCSA many Native leaders in general and the Alaska Federation of Natives in particular have supported

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a continued and growing movement that is detroying the foundition of this mutual respect. They are using the wealth of the Settlement, not to promote equality among Alaska's people, but instead demand special treatment, consideration, rights and laws that benefit only Alaska Natives and at the expense of non natives in particular and all individuals in general.

In ANILCA is one of the best known and, to me, the most infamous of these demands. ANCSA, by extingishing all aboriginal hunting and fishing rights, specifically established the full recognition that Alaska's fish and wildlife are reserved for the people's common use. ANILCA circumvented and violated by intent and law both ANCSA and Alaska's Constitution by mandating a special so-called subustence priority right to Alaska's common property fish and game resources. This federal mandate, for inequality under the law, has been used to blackmail

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Alaska into passing fish and game laws and regulations that are clearly unconstitutional. The division this is causing among Alaska's peoples is clear and disastrous.

Over the years the AFN by constantly repeating implied rights, lobbying, propaganda and promotion have changed the facts of ANCSA into publicly accepted so-called truths of special rights for Alaska Natives. They claim they are a special and unique people, implying the right of special consideration

My belief, my creed, and that of my country will recognize only that special consideration in which all individuals are equal under its laws. This is the only avenue that is proven to promote lasting respect and understanding among people.

I see the amendments to ANCSA, as proposed by Senate Bill 2065 and HR 4162 to be in direct opposition to such equality. The proposed design is to and in fact will treat Alaska

Natives' lands, economic interest, civil rights, citizenship, governing relationships, responsibilities, resource ownership with special consideration, not as for all individual Alaskans, but as to the degree of their race. Its stated intent is not to unite all Alaskans in our society and government, but is to promote and perpetuate a continuation of the division and distinction between Natives and non natives in our state. This divison of race consideration is to be protected, perpetuated and widen for as long as possible. No longer is the goal to unite AlasKa's peope as was the high expectation of ANCSA.

I, must, feel sorry for those leaders whose greed drive them in their short sighted promotion of these amendments and make them blind to the eventual distruction of the goverment, state, communities and even the families they profess to protect. They do this thru a calulated plan that leads

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to a demand for sovereignty and therefore to an irrevocable division of laws and government and the right of those governing and those governed.

The high goals of Section 2 (b) of ANCSA will become a farce. Therefore, I ask all Congressmen to look beyond today and reflect on when and how can the people of our State become as one with individual equality under our laws, when this proposed legislation in fact perpetuates a clear special interest based entirely on consideration of race. I oppose all sections of these bills and support the original intent and purpose of ANCSA

Dale Bondurant
Dale Bondurant
Box 527
Cooper Landing Alaska
99572

Senator MURKOWSKI. Thank you.
Ann Barker.

STATEMENT OF ANN BARKER, PRESIDENT, KODIAK ISLAND SETNETTERS ASSOCIATION

Ms. BARKER. I'm President of the Kodiak Island Setnetters, and I'm on the Executive Board of the Alaskan State Setnetters.

I would like to comment on these amendments. First of all, I think this is happening very quickly and very fast. I was aware of these some few weeks ago, but actually wasn't aware of these hearings until you, Senator Murkowski, were in Kodiak last Thursday. And I think that the Native land-holding question impacts the State of Alaska and that they impact every Alaskan, Native or non-Native. We would like the opportunity to review these at length, and I would urge you to slow down on the passage of these.

Another thing that bothers me about commenting on these amendments is that it seems to drive a wedge between Alaskans and Native Alaskans. And I'm in a position in Kodiak, I'm a local elected official, and I support various capital projects in the villages, and I support and would like to see the Native Alaskans, and particularly on Kodiak Island, be successful in their own eyes.

My comments as a Setnetter are that I'm concerned that these amendments diminish my rights as a Setnetter.

Since 1971, we have pursued, under 14(c) of the Native Land Claims, where it states that if you have a primary place of business or residence, then you should be entitled to that land. We're going through meetings, we have filled out numerous things, we're still in the process of trying to obtain settlement under 14(c), and we see these amendments as further muddying the waters—and whether we have to start over again. There are several ramifications that are not being made clear.

It almost seems like the law was silent on any procedure to solve the 14(c) problem under the Native Land Claims Settlement Act. And in spite of us asking for help on the congressional level to solve this, none was forthcoming. And yet, a group of Natives would like further clarification on the Act, and were presented with this, which has vast problems and no one can agree on, and it is frightening to us.

So in conclusion, I would urge you to go slowly. I would urge you to make sure that the ramifications are clear. And I would like the amendments not to radically alter the original intent of ANCSA. Thank you very much.

[The prepared statement of Ms. Barker follows:]

ANN BARKER
KODIAK ISLAND SETNETTERS
BOX 2135
KODIAK, ALASKA 99615

SENATOR FRANK MURKOWSKI
709 HART BUILDING
WASHINGTION, D.C. 20510

DEAR HONORABLE SENATOR:

WE BELIEVE THE PROPSED AMENDMENTS TO THE ANSCA LEGISLATION WOULD CHANGE THE PURPOSE OF THE ORIGINAL BILL. THE LAND CLAIMS SETTLEMENT WAS SO VAST AT 44,000,000 ACRES, MANY IN STATEGIC LOCATIONS, THAT ANY ADJUSTMENT IN THE WAY THE LANDS ARE HANDLED AFFECTS EVERY ALASKAN. GIVEN THE BROAD RAMIFICATIONS, ALL ALASKANS SHOULD HAVE A CHANCE TO REVIEW OR COMMENT ON THESE AMENDMENTS. PUBLIC AWARENESS HAS BEEN LIMITED UNTIL JUST LATELY.

WE BELIEVE SECTION 7 (C) OF THE AMENDMENTS WOULD SET THE STAGE FOR NATIVE SOVEREIGNTY WHICH IS IN DIRECT OPPOSITION TO THE ORIGINAL INTENT OF ANCSA AND HARMFUL TO NATIVE GROUPS AS A WHOLE. INHERENT TRIBAL SOVEREIGNTY, AT LEAST WHEN DEFINED AS THE POWER TO CONDITION, REGULATE OR EXCLUDE NON-INDIAN PERSON, IS TERRITORY DEPENDENT. THIS COULD DUPLICATE THE DESTRUCTIVE RESERVATION FORMS OF GOVERNMENT OF THE LOWER 48. ALL OF THIS WOULD CHANGE THE ALASKA WORKS TO THE DETRIMENT OF NATIVE AND NON NATIVE ALIKE.

WHAT HAPPENS TO INDIVIDUAL NATIVES WHO DO NOT LIVE ON THE RESERVATION? WHAT IS THE FAIR MARKET VALUE OF THEIR STOCK IF THE SALE OF IT IS RESTRICTED? WHAT HAPPENS TO THE HUGE FERDERAL LANDS ADJACENT TO NATIVE LAND? WHAT HAPPENS TO THE HUNTING AND FISHING RIGHTS WE HAVE ALL SHARED? WHAT HAPPENS TO US, SETNETTERS, SOME WHITE SOME NATIVE. WHO HAVE FISHED IN AN AREA FOR DECADES IN ESTABLISHED SITES? WHAT KIND OF PHYSICAL AND LEGAL PROBLEMS ARE IN STORE FOR US IF THESE AMENDMENTS ARE ADOPTED? MULITIPLY THESE PROBLEMS MANY TIMES OVER BECAUSE SETNETTERS NUMBER OVER 4000 IN THE STATE.

WE BELIEVE THE ORIGINAL INTENT OF ANCSA TO SETTLE ALL NATIVE CLAIMS IN ALASKA SHOULD BE ADHERED TO. ANCSA SEPARATED NATIVE LAND OWNERSHIP FROM NATIVE GOVERNMENT. ANCSA EXTINGUISHED ALL RESERVATION LANDS, EXCEPT ONE, AND SET UP INSTEAD A LEGAL FRAMEWORK OF VILLAGE AND REGIONAL CORPORATIONS TO ADMINISTER NATIVE LANDS AND ASSETS. LAND AND ASSETS THAT AMOUNT TO THE LARGEST SETTLEMENT IN HISTORY. CONTRARY TO SECTION 1 (C) OF THE AMENDMENTS, THE VALUE OF THE SETTLEMENT, ESPECIALLY IN LANDS, HAS INCREASED IN THE YEARS SINCE PASSAGE.

THESE AMENDMENTS WOULD MUDDY THE WATERS AND SUBJECT US TO MORE DELAY IN SETTLEMENT OF SETNETTER CLAIMS UNDER 14 (C) OF ANSCA WHICH PROVIDED FOR TRANSGER OF OWNERSHIP TO PRESENT OCCUPANT OF ESTABLISHED RESIDENCES OR BUSINESSES WITHIN CLAIMED AREAS. WE HAVE REPEATEDLY OVER THE YEARS SINCE 1971 ASKED FOR CLARIFICATION OF THIS SECTION FROM THE ALASKA CONGRESSIONAL DELEGATION. IT HAS BEEN MANY YEARS, WE HAVE HAD MANY MEETINGS WITH THE NATIVE LAND HOLDERS, WE HAVE FILLED OUT

FORMS. WE HAVE PAYED FOR LEGAL COUCIL, AND STILL HAVE NOT RECEIVED LAND OR AKNOWLEDGEMENT OF CLAIMS. ANY REOPENING OF THE LAND CLAIMS ISSUES SHOULD ADDRESS THIS AREA.

WE ARE AGAINST THESE AMENDMENTS AS PROPOSED. WOULDN'T A ONE TIME EXTENSION OF NON-TAXABLE STATUS AND RESTRICTION OF STOCK ACCOMPLISH WHAT THE NATIVE GROUPS NEED IN TERMS OF BECOMING SELF SUSTAINING AND YET NOT OPEN THE DOOR TO SOVEREIGNTY?

WE SUPPORT NATIVE EFFORTS TO BECOME SUCCESSFUL IN THEIR OWN EYES, HOWEVER, WE SEE THESE AMENDMENTS DIMINISHING OUR RIGHTS AS ALASKANS.

THANK YOU,
SINCERELY,

Ann Barker

ANN BARKER
PRESIDENT OF KODIAK ISLAND SETNETTERS

Senator Murkowski. Thank you, Ms. Barker.

Our next witness, Sid Omlid, is not going to be here.

Noel Woods, Matanuska Valley Sportsmen.

STATEMENT OF NOEL WOODS, MATANUSKA VALLEY SPORTSMEN

Mr. Woods. Thank you, Senator. I'm Noel Woods.

It is our feeling that Section 7(c) serves no useful purpose. It certainly does not further the ideal of helping Native Alaskans join the citizens of the United States in the enjoyment of all the opportunities available to us.

It appears upon reading that the Alaska Native Land Claims Settlement Act that Congress the errors of the historical and traditional ways of dealing with Native American. Congress perceived these ways reduced the opportunity for full and equal participation in the economy and society of the United States.

There should be no attempt to reverse the declaration of policy, Section 2(b), as stated in ANCSA, which reads in part: "The settlement should be accomplished without establishing any permanent racially-defined institutions, rights, privileges or obligations, without creating a reservation system or lengthy wardship or trusteeship."

There can be a very positive way of furthering the intent of ANCSA and that is to refuse any mention of sovereignty in the 1991 Amendments, and move positively to reaffirm the intent to offer Native Alaskans the same rights and privileges and duties enjoyed by other American citizens.

We support the original intent of Congress as we see it written in ANCSA: a positive effort to avoid the errors made previously with treaties and laws governing Native Americans in the contiguous 48 States; a prohibition of racially-segregated or racially-defined laws and institutions.

And we further support a reaffirmation of those two points by rewriting Section 7(c) to so state: "Any right, privilege, or immunity of Alaska Natives that would cause a separation from the rights, privileges or immunities of any United States citizen in their relationship with the government of the United States is expressly denied." Thank you very much.

Senator Murkowski. Thank you very much, Mr. Woods.

Ms. Barker, in response to your concern over the movement. I don't intend to indicate what is regional. We have had hearings in several areas of the State, such as Hoonah, Barrow, Kotzebue. The effort has been pretty well publicized since I believe last October, the discussion about the issues of 1991. So I don't want to dissuade you for the moment of your recollection, but I wanted to comment briefly on what you have said. Of course, the purpose of the hearings are to bring out just the type of testimony that we have gotten from many witnesses here this morning with regard to flaws that they may see in the proposed legislation or recommendations on approving the legislation.

I would assume that none of the witnesses object to the concept of 1991 in the sense of extending beyond that period the time in which the stock is to be restricted. Is there an objection to that?

Ms. **Barker**. I would recommend that time be extended for a definite period of time where they would have their stock restricted, and also extend on the non-taxability of the land for a specific period of time, a one-time extension. I think that would be in the spirit of the original law and yet it would also make allowances for the actual implementation of that Act.

Senator **Murkowski**. Well, we have had a good deal of discussion about the taxability. And as I think I indicated when the hearing first opened this morning, we have inconsistencies that exist.

It would be interesting to reflect on the record back in 1970 when the legislation was being drafted with the reality that 20 years after receiving the land that the land would be taxable under the current law now. Now, it's fine for land that has a value in a sense of land that's within the borough, because they can generate revenues from the sale of that land. But the whole purpose of subsistence, which reflects on the ability of the land to produce a traditional lifestyle, a land that's used for fish and game, if that land were taxed, there's probably very little likelihood that the land would generate enough revenue to support the taxation. That would mean that the land would have to be sold to meet the tax requirements, which would result in the inability to sustain the subsistence economy. So you go round and round and round. But currently the provision to simplify it is that if the land produces revenue it will be taxable.

Mr. **Woods**. Senator, the fact that this bill does open up areas of public concern, not just internal Native corporation concerns, does, as you suggest, raise the issue of subsistence. And we're quite concerned because of the ongoing fighting involved in this and the expense involved, and we realize that it's not socially acceptable for the people involved in what they call subsistence to monitor their populations by the rise and fall of the subsistence food sources as was done historically and traditionally. And therein starts the argument.

We wonder if it's the Senate's intention to reopen the Alaska Native Land Claims entirely through amendment by offering other amendments that just internal corporation affairs.

Senator **Murkowski**. Thank you. do you have a comment?

Mr. **Bondurant**. Yes, I'd like to make a comment on the subsistence land. I think it was back in about 1982 in Juneau, when there were some proposals made concerning subsistence, and there were six Native corporations that got up in their proposal and, in effect, said that they believed in the priority of subsistence but it should not apply to their lands. And the only thing I can see is that they want that land with the resource of fish and game available to sell the right through anti-trespass measures to the rest of the public and then have subsistence rights on other public lands.

So I think that there is a question of whether, i.e., subsistence land should be taxed or not, and I'm in favor of it. If they want to open that particular land to a land bank setup or a non-tax setup to the entire public, I would be for it, but I'm against them getting a piece of land tax free and still it's private land in every sense of the word.

Senator **Murkowski**. All right. Thank you. That concludes panel 8. The next panel is panel 9, and that will include Becky Gay, President of the Resource Development Council; Judy Brady, Commonwealth North; Dan Alex, President of the Alaska Land Managers Association. If you would come up, we would begin. Judy Brady is not here. All right. Becky Gay, President of Resource Development Council.

STATEMENT OF BECKY GAY, DEPUTY DIRECTOR, RESOURCE DEVELOPMENT COUNCIL FOR ALASKA, INC.

Ms. Gay. Thank you, Senator Murkowski. Thank you for this opportunity to speak before you today and to submit these comments for the record on S. 2065, the proposed 1991 legislation.

My name is Becky Gay. I'm the Deputy Director of the Resource Development Council for Alaska, Inc., commonly referred to as RDC.

By way of explanation, RDC is a non-profit, privately-funded statewide association representing various economic sectors of Alaska. We have been organized for 11 years, and our membership includes individuals, corporations, associations, communities and labor unions involved in resource development production; such as, mining, oil and gas, fishing, timber, agriculture, international trade and tourism.

The Council wishes to extend its appreciation to Senator Murkowski and Senator Stevens for making the effort to include this Anchorage hearing in their busy schedule.

The proposed 1991 amendments to ANCSA certainly warrant dedicated effort to present the issues and the philosophies which they generate and maintain, especially to the public which will be the most affected, the Alaskan public.

Because of the sustained impact of ANILCA and ANCSA on Alaska's resource development, RDC is and will continue to be involved in discussions regarding that legislation.

However, at this time, the Resource Development Council has no formal position on the proposed 1991 amendments.

RDC is concerned though, and is studying the proposed amendments, listening to hearings such as this, the AFN conventions, public debates and presentations on the amendments under consideration.

They are also discussing the 1991 issues with a wide range of Alaskans.

RDC sincerely hopes that Congress considers the amendments in light of Alaska's ability to utilize its resources instead of federal revenues to enhance our economic well-being and our quality of life.

In closing, let me confirm that RDC stands for Alaskans working with Alaskans to improve the quality of life through sound resource development. And RDC considers all Alaskans to be important in this economic philosophy, and hopes that any amendments to ANCSA will reflect concern for the good of all Alaskans as well as recognizing the importance of Alaska to the Nation. Thank you.

Senator Murkowski. Thank you, Ms. Gay. We would encourage the Resource Development Council to voice any opinion it may have during the 30 days in which the record will remain open.

Mr. Dan Alex.

STATEMENT OF DANIEL ALEX, PRESIDENT, ALASKA NATIVE LAND MANAGERS ASSOCIATION

Mr. ALEX. Senator Murkowski, good afternoon. I want to thank you for the opportunity to be able to testify here. I have a brief written statement which will be supplemented after we have our subsequent managers meeting.

Senator MURKOWSKI. It will be entered in the record.

Mr. ALEX. I want to talk briefly about some of the issues that are there. Like I said, a formal position will be taken later, but there are some issues that I think need to be addressed.

One, the after-born issue. I think that only the heirs—I own 8.33 shares that I inherited from my father, and I think that the shareholders' rights have that in spite of the attempts to ride around the liability for the Government, I think that the separation of powers we will see the results of the judiciary interpretation of that part of the bill.

In terms of dealing with the elderly and giving them additional benefits, I think there are other ways of doing it. One of the ways we looked at it several years ago was coming up with an insurance program which would pay the elderly on a monthly basis. This would require an amendment to the existing and current law as to establish a vehicle to do it.

In terms of—as I say, there are a number of things that are there that I think are important. I was interested to hear a number of different regional corporations this morning speak in opposition to Section 9. I find that interesting because on page 21 there's a reference to the June 29th, 1982, agreement, which was a complex settlement agreement which deals with the surface and subsurface issue and the tracing of—would be beneficial to the regional corporation—and deterimental to the village corporations, by the way.

In 1982, my Land Managers Association disassociated itself from the informal relationship that we had with AFN over that issue. And the villages were opposed to the agreement until the agreement reflected there was no change in Section 14(f) of ANCSA and made sure that the sand and gravel was part of the surface estate.

I see the yellow light on and I have a lot more to say.

Senator MURKOWSKI. You have one more minute.

Mr. ALEX. There's another section of ANCSA 2065 that I'm concerned about, and this talks about the ability of not counting some of the resource assets in evaluation of the stock. I think that's going to really—that it is really an area of concern. It can be arbitrary. To give you an example, the corporation valuing its stock, not counting some of the assets, there can be considerable differences between that value and what the real value is. And giving it an arbitrary interpretation to an arbitrary group, but it's going to be a problem. Also, giving effectively 26 percent of the shareholders the right to decide on whether or not they should deal with the alienation issue is a real problem. I think the original law as it exists says that two-thirds have to decide. And I think there's a message there. If they can't get two-thirds to vote on it, they need to take a look at it.

[The prepared statement of Mr. Alex follows:]

TESTIMONY OF DANIEL ALEX
PRESIDENT
ALASKA NATIVE LAND MANAGERS ASSOCIATION
BEFORE THE FIELD HEARING OF
THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE COSERVATION

ANCHORAGE, ALASKA
MAY 27, 1986

Mr. Chairman, Members of the Committee, I am Daniel Alex, President of the Alaska Native Land Managers Association(ANLMA), and I am speaking in that capacity. As you may be aware, my organization has been in existence since 1972. It started in the early days of the Alaska Native Claims Settlement Act. The ANLMA was an informal organization of members, who in the beginning consisted of mainly the land managers of the regional corporations. My involvement in the association began in 1973, when I returned to Alaska to help out my village of Eklutna. The ANLMA changed its membership rules to allow village membership, since many of the problems with land and the government were the same. In 1975, I became the chairman and have been ever since. One of the big events that we were directly involved in was the Lawsuit known as Calista vs. Kleppe. In a joint meeting of the ANLMA and The Alaska Federation of Natives, we explained that a lawsuit needed to be filed to protect the rights of the corporations against a wrong interpretation by the Interior Department in reserving easements in the patents.The reason for the lawsuit was our belief that the government was not implementing the settlement act in the manner intended by ANCSA. That is history now, and we won our point of view. The House of Representatives held a hearing in July of 1977 on the implementation of the Alaska Native Claims Settlement Act. I led off the hearing with a report of how the government was not implementing the Act. The tone of the hearing was the same for all of the hearing. The Interior Department was told that if they did not began to implement the Act, that congress would do it for them. The result of the two major event led to a major shift in the implementation of ANCSA. The Interior Department began to implement the Act in earnest. Our ANLMA has been meeting fairly regularly over the years, with our organization working on problems to find solutions for them and to share those solutions with our members. In 1982 we changed our organization to a 501c(3) non profit corporation.

What I want to convey here is the clear message that we, The Alaska Native Land Managers Association have been contributing to the aid of our fellow Natives and will continue. We have a meeting scheduled tomorrow on the 1991 proposed amendments and will present a formal position in writing in a short time.

If the S.2065 is the beginning point of the legislative process and will not be passed as written, I believe that legislation which is fair to all concerned can be achieved. If it is intended to pass in the form as presented it is cause for concern.

The settlement act was written with the idea in mind of getting the settlement done with as little litigation as possible and that did not occur. The reasons are many and one of them is the way the law was written. When laws are written unclear as to the intent or written in a manner that is difficult to understand it is the cause of litigation.

I believe that in the form that S. 2065 is written is unclear to many of my fellow Native Alaskans and needs to be reviewed in a proper forum and that is a special convention where all aspects of the bill can have review. I think that under that kind of scrutiny, a bill different than what we see will emerge.

As I said, our Alaska Native Land Managers Association will be meeting Tomorrow and will submit a formal position in writing.

Senator MURKOWSKI. I'm wondering if you had an opportunity this morning to hear Mayor Knowles' comments with regard to the manner in which he favored the application of taxation as the principle within the borough.

I believe his statement was that if a land in question is submitted for subdivision or further documentary type process, that at that point it would be taxable. Do you concur with that or do you have another position on it?

Mr. ALEX. I want to thank you for bringing it up.

One of the concerns that I have—I'm a Director of Eklutna, Incorporated, and we're within the bounds of the Municipality of Anchorage, at least half of the land holdings of Eklutna lie within the bounds of the Municipality of Anchorage, and a careful interpretation of development is very important. Eklutna, Incorporated, received several thousand acres of what is unofficially a crew of government plants, and under the language stated by Mayor Knowles, without care and consideration to those, those will fall into the taxable status immediately with passage of the new law.

Senator MURKOWSKI. So you would agree that under platting that would be sufficient to initiate an obligation of taxability?

Mr. ALEX. Under the normal platting rules, receipt of already-platted property should be excluded.

Senator MURKOWSKI. We have heard some contention that as a consequence of not only land that's held within the Anchorage Borough but land that's held in other boroughs, including Juneau Borough, that this land really doesn't represent subsistence land. Rather it's valuable commercial land located within the borough and should pay taxes under the same basis as any other land held within the borough by private developers or private owners. Why should one group of private land-holders have the availability of waiver of taxes when basically they're competing in the same commercial market for development.

And I guess my question is two-fold. What's your response to that argument, and if your land were taxed, would you have to sell it to meet tax payments, and, thereby, put more land on the market which would decrease the price of other private land that's available and taxable?

Mr. ALEX. The answer to the question goes directly to the land banks legislation as it exists in ANILCA. And the justification for it was exactly what you were just talking about, the pressure for marking developed properties would exceed the demand and repress the value to the corporation. There's a finite growth rate in Anchorage—it's been pretty healthy, but it's down. And you can predict what the consumption of any corner of real estate, whether it's commercial, residential and so forth. You can see that the problem then comes with the repressed value with lands.

Senator MURKOWSKI. In your particular case, what is the priority; is it to market the land in an orderly process and generate revenues, or is it to hold the land for other reasons?

Mr. ALEX. One of the problem with running a corporation is that you have to generate the revenues to run the corporation. And since it didn't receive a lot of money in the first place, we have to generate that revenue with some of the real estate. Some of the other uses for some of the other lands would be for protection of the land in its natural form.

Senator **Murkowski**. Can you help us solve this, there's been a lot of definitions about what are improvements. Somebody says that a subsistence shack is an improvement. Well, obviously you get different opinions, it's an improvement on a cold day.

Mr. **Alex**. We, you know, in working with the City of Anchorage, have come up with what we thought were some mutually acceptables, and that was the final approval of the plat. The other lands were lands that were from the State when statehood was received and was not taxable. And the Working agreement, the working relationship on that was very cordial.

Senator **Murkowski**. Thank you, Mr. Alex. I have no further questions of the panel. Thank you, Ms. Gay, and thank you, Mr. Alex.

We will move to panel 10. Panel 10 will consist of Mr. Jack Hession of the Sierra Club; Susan Alexander of the Wilderness Society; Diane Benson and Linda Beecher will the Alaska Legal Services Corp. I understand that Linda Beecher is not here and we will permit her to testify later if she desires.

Ms. **Benson**. Senator Murkowski, I'm giving Linda Beecher's testimony on behalf of Alaska Legal Services Association.

Senator **Murkowski**. And your name is?

Ms. **Benson**. Diane Benson.

Senator **Murkowski**. All right. Are you going to give your own testimony as well?

Ms. **Benson**. Yes.

Senator **Murkowski**. You'll be giving two testimonies. All right. You may proceed, Ms. Alexander.

STATEMENT OF SUSAN ALEXANDER, ALASKA REGIONAL DIRECTOR, THE WILDERNESS SOCIETY

Ms. **Alexander**. Mr. Chairman, my name is Susan Alexander. I'm the Alaska Regional Director for the Wilderness Society. We do appreciate the opportunity to testify on this bill of great importance, not only to Alaska and Native Alaskans, but to the entire nation.

The Wilderness Society has, for over 50 years, been dedicated to the wise management of all Federal lands and preservation of wilderness.

In considering the proximity of Native holdings in the State to Federal lands, and particularly to the conservation system units, we are very concerned with their future management and the impact that would have on Alaska's Federal lands.

The Wilderness Society strongly supports the goals of the bill, an essential purpose to protect Native ownership of Native lands in order to protect, particularly, subsistence rights and to protect also Native and Federal lands.

We also support the method that's being employed in the bill, essentially the removal of the 1991 deadline that restricted the restriction on alienation to non-Natives.

However, we are concerned with your bill as drafted. We find that it is extremely difficult to understand, extremely complex and conplicated, and for that reason, we're not sure that the bill actually will accomplish what its proponents intended it to.

One portion of particular concern to the Wilderness Society is the one that would protect—excuse me—extend the protection of the land banks to all undeveloped Native lands.

Though we applaud the goals of this section, we don't feel that it is necessary at this time because of the existing land bank provisions in the Alaska Lands Act. This provision hasn't been given a chance to work, it's been untested. For some reason, the Reagan administration has failed to sign the one Land Bank Agreement that's been ready for quite some time. We would like to see the Land Bank work.

However, we would urge the Committee to take a close look at that provision in ANILCA, perhaps even conduct oversight hearings on it, and if the committee finds that it is not workable, perhaps at some later point, when there's another actual round of ANCSA cleanup amendments, at that point tighten or change the existing Land Bank provision.

In the meantime, the protections of the ANILCA Land Bank provision should be extended to include immunity from bankruptcy and voluntary dissolution.

To sum up, the Wilderness Society would urge the Committee to redraft the legislation in order to ensure that it does no more or no less than it was intended to do, and to clarify those purposes and effects.

The Society, both here and in Washington DC, looks forward to working with the Committee and the Native community and all other interested parties to develop those provisions that will affect Alaska's Federal lands, and particularly the national interest holdings adjacent to Native holdings.

We hope that our cooperative effort of this sort will be to the wise management of both Federal and Native lands, which will directly benefit those dependent on the land while advancing the fundamental goals of the Alaska Lands Act. Thank you very much.

[The prepared statement of Ms. Alexander follows:]

THE WILDERNESS SOCIETY

STATEMENT OF SUSAN ALEXANDER, ALASKA REGIONAL DIRECTOR, ON S. 2065, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, MAY 27, 1986.

Mr. Chairman, The Wilderness Society appreciates the opportunity to submit testimony on S. 2065, a bill to protect the ownership of Native corporation stock and Native lands, among other things. The primary goals of this legislation are of direct and critical importance to Native Alaskans, but its significance extends to all Americans because of the proximity of Native lands to Alaska's invaluable national interest lands. The Wilderness Society has, for over 50 years, been committed to the wise management of all the federal lands and the preservation of wilderness. The management of Native land will have profound effects on much of Alaska's federal lands. Hence the interest of the Society in S. 2065.

The Wilderness Society strongly supports the bill's essential purpose to prevent the loss of Native control of Native lands. The Society also supports the method employed to achieve that end: removal of the 1991 deadline, set in the Alaska Native Claims Settlement Act (ANCSA), that would lift the restriction on the alienation of stock to non-Natives. However, the bill is drafted in an excessively complicated manner and, as a result, is extremely difficult to understand. Therefore, we are unsure that the language of the bill does, in fact, do what its proponents intend.

Of particular interest to The Wilderness Society is the provision that would extend the protections of the Land Bank, established by the Alaska National Interest Lands Conservation Act (ANILCA), to all undeveloped Native land. The Society applauds the goal of this section to relieve Native corporations of a tax burden and the possibility that land may be lost as a result of an adverse court judgment or other involuntary action. These threats could lead to land development that would adversely affect lands critical for subsistence and prove deleterious to adjacent federal lands. The Society, however, believes this provision of the bill to be unnecessary at this time, though the immunities provided by the Land Bank should be expanded to include bankruptcy and voluntary dissolution.

ALASKA REGION

519 WEST 8TH AVENUE, SUITE 205, ANCHORAGE, ALASKA 99501

(907) 272-9453

The Reagan administration has failed to complete any cooperative agreements pursuant to the existing Land Bank provisions. Thus it remains untested. At least one agreement has been ready for signature for some time, yet has not been executed. No reason has been given for the delay. The Society urges the Committee to look into the implementation of the ANILCA Land Bank provision specifically and perhaps conduct oversight hearings on the matter. If it appears that the provision is not workable, then Congress should act to provide the necessary protection in subsequent legislation. We understand such an opportunity may be forthcoming in the form of yet another ANCSA "clean-up" amendment package to be pursued after the 1991 question is resolved.

To sum up, The Wilderness Society strongly supports the basic goal of S. 2065 to prevent the loss of Native control of critical Native lands, and appreciates the efforts of the Alaska Federation of Natives in this regard. However, the language of the bill as drafted raises many important questions of great consequence to Native Alaskans and the nation as a whole. For this reason, the Society urges the Committee to redraft the bill, prior to mark-up, in order to clarify both its purposes and effects.

The Society looks forward to working with this Committee, the Native community, and other interested parties to develop those provisions that will affect Alaska's federal lands, and specifically the national interest lands adjacent to Native holdings. We hope a cooperative effort of this sort will lead to the wise management of both federal and Native lands, which will directly benefit those dependent on the land while advancing the fundamental goals of the Alaska Lands Act.

Senator **Murkowski**. Thank you very much. we appreciate that testimony, Ms. Alexander. And I might add that I can't explain the delay on the Land Bank either. But I am told that within a matter of days—of course, there are a lot of days in a year—Conneaut is to be blessed with the first Land Bank in Alaska. So we'll see how the attorneys make out with that.

Ms. **Alexander**. Well, we have been hearing that for quite some time now.

Senator **Murkowski**. I know that.

Diane Benson, why don't you give one of your statements and then we will go back to Jack and then, Diane, you give the last one and that will break your testimony up into two.

Ms. **Benson**. I would prefer to do it all together.

Senator **Murkowski**. Go ahead. Please proceed.

STATEMENT OF DIANE BENSON, ALASKA LEGAL SERVICES CORP.

Ms. **Benson**. My name is Diane Benson of the Aleknacik tribe, and I'm a para-legal with Alaska Legal Services.

What we're addressing in Senate bill 2065 is the lack of attention to 29(d) to serve as protection for people or shareholders through ANCSA and on public entitlement benefits.

What we have found is that stockholders in ANCSA corporations are experiencing termination of public entitlement benefits or reduction or denial of these benefits because they have ANCSA stocks or dividends or are receiving dividends and land. These are being counted as unearned income or resources, as defined in the Division of Public Assistance Manual.

The people affected are single parents and their children with low income households requiring food stamps and aid for dependent children benefits, and the elderly and disabled in need of social security supplemental insurance.

ANCSA has caused these people to be adversely affected, inadvertently, I'm sure. When stocks, ANCSA payment dividends and land are counted by the DPA as unearned income or resources, the client is usually considered ineligible. Some examples we have seen involve loss of benefits for one month or more as the client may be deemed ineligible after receiving a check from the corporation, and they must report it to the DPA, who would then define the client as over-income or over-resourced; thus, ineligible. And they must reapply and go through another waiting period; thereby, losing needed benefits to get the family by.

The dividend check only serves to lessen the benefits. At this point, the check for those in this situation serves no value at all.

Section 302120 AFDC Manual states that any taxable distributions from ANCSA corporations are non-exempt for AFDC purposes. The Food Stamp Manual goes on to make a distinction between payments made from ANCSA funds and payments from profits the corporation has made from ANCSA. Both get their authority, however, from the 45 CFR Section 233-20, where they note in regard to income and lists as part of that which will be disregarded as income and resources: (k) tax-exempt portions of payment made pursuant to Public Law 92-203 of the Alaska Native Claims Settlement Act.

It says that tax-exempt portions of ANCSA payments will be disregarded, leaving the assumption that taxable payments will be included as income or resources in the eligibility determination by the agencies.

In some instances, such as with the automatic shareholder, the shareholder is required by DPA to pay back the amount in question.

There are many situations, as there are shareholders on welfare, food stamps and SSI. The fact is, the people are losing because of it. And some of those who feel an injustice come to the steps of Alaska Legal Services in hopes of correcting this problem. Most people do not do anything, although they feel the irony of the situation. The word does not get back to the corporations as a general rule, as shareholders are unlikely to complain to the source of the dividend.

ANCSA was a settlement intended, on one hand, to improve the social and economic situations of people. Public Law 92-203, Section (b), that settlement should be accomplished rapidly with certainty and conformity with real economic and social needs of Natives. And, of course, Section 2 I need not quote.

Native people have not had a dramatic affect on their lives to conform with economic and social improvements as a result of ANCSA. Situations have improved, but not such that Native people or even a significant number have benefited by ANCSA to the point of self-sufficiency. A great number are on welfare at this time and other public entitlements.

Senator MURKOWSKI. I would ask you to summarize the remainder of your statement.

Ms. BENSON. Unfortunately, not all corporations are going to make that much of an impact. People receive dividends, and these dividends and some of the lands that some people are receiving are—excuse me—holding up entitlement and benefit eligibility.

We recommend that ANCSA's Section 29(b) be changed as the Native American Rights Fund, as Lare Aschenbrenner and Bob Anderson have recommended in that additional proposed legislation. Thank you.

Senator MURKOWSKI. Let me just comment, I don't know if you heard, but this morning, Mr. Steven Britt, who represents the Department of the Interior, indicated that it's his opinion that the Department of the Interior feels that ANCSA is not determination legislation; therefore, the Native people are still entitled to benefits, help, or voluntary consideration. I'd like to say for the delegation that previously, when needed, we have gotten sufficient amendments to clarify that Alaskan Natives have been and would continue to be entitled to those benefits and social security. They're problems that we have been successful in. I do appreciate your point of view and your recommendations with regard to the specific concerns.

The next witness is Mr. Jack Hession of the Sierra Club. Mr. Hession, please proceed.

STATEMENT OF JACK HESSION, ALASKA REPRESENTATIVE, SIERRA CLUB

Mr. Hession. Thank you, Mr. Chairman. If I may, I would like to submit my statement for the record.

Senator Murkowski. The entire statement will be entered into the record.

Mr. Hession. Thank you. My name is Jack Hession, and I'm the Alaska Representative of the Sierra Club. I appreciate the opportunity to testify here in Alaska on this major legislation.

As my colleague in the Wilderness Society, the Sierra Club strongly supports the basic purpose of this legislation.

Congress determined that it was in the national interest to provide Alaska Natives with their land settlement and monitary settlements, and this legislation is perfectly consistent with that congressional intent and we whole-heartedly support it.

However, we do have a couple of concerns. One deals with the Section 7(c) disclaimer, and the other one with Section 10, the provision on undeveloped lands.

On the first, we're pleased to have the assurances this morning by you and Mr. Stevens that this legislation does not deal with the question of Native sovereignty. We don't think that issue is germane either, and we do not wish to enter legal thicket at this time.

Senator Murkowski. You can avoid it? [Laughter.]

Mr. Hession. And I would like to emphasize that the Sierra Club is not taking a position on Native sovereignty here. That issue is so sufficiently complex and controversial that it warrants special consideration by this committee and by the Congress separately.

And in that line, we simply recommend that you delete Section 7(c) or clarify it with sufficient legislative history to make it absolutely clear that these positions are separate.

On Section 10, we're opposed to it because it would in effect negate the Alaska Land Bank provision in ANILCA. We have heard from BBNC this morning. I'd like to point out that this Friday, the U.S. Fish and Wildlife Service intends to sign the Land Agreement with the villages of the Kalina area. So this thing does work if given a chance. BBNC, by the way, is a particularly tough nut to crack, it seems to me, given their thrust towards development. The Fish and Wildlife couldn't have picked out a more difficult corporation to deal with.

In summary then, I would say that before we toss the Alaska Land Bank overboard, we should see if it can be improved. And I would urge this committee to, in Mr. Angapuk's phrase, twist the arms of the Department of the Interior a little; see if the Department can deal with more subsistence-oriented Native corporations. And I think if that is the case, we may see the Land Bank turn out to be the, quote, "victory," unquote, it was intended to be. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Hession follows:]

STATEMENT OF JACK HESSION
ALASKA REPRESENTATIVE, SIERRA CLUB
on
S. 2065
before the
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ANCHORAGE, ALASKA
MAY 27, 1986

Mr. Chairman and members of the Committee, I am Jack Hession, and I am testifying here today on behalf of the Sierra Club, including the Alaska Chapter.

We support the basic purpose of this bill, which is to promote the retention in Native ownership of corporate shares and lands conveyed pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA). S. 2065 would accomplish this purpose by continuing indefinitely the existing ANCSA restrictions on alienation of corporate shares for as long as the majority of shareholders of a Native corporation desired. Native corporations would retain control over their assets, including, most importantly, their lands.

However, S. 2065's provisions on the intent of ANCSA (Section 7) and the proposed tax exemption for undeveloped lands (Section 10) are matters of concern to us.

Section 7

Intended as a disclaimer by the sponsors of this bill and the Alaska Federation of Natives, this section has engendered considerable controversy. Several groups have suggested that Section 7 is not a statement of neutrality on the Native sovereignty question, but in fact may be used by advocates of sovereignty to to advance their cause in the courts or before the Department of the Interior.

We agree with the AFN and the bill's sponsors that the sovereignty issue is not germane to the bill. However, our lawyers find Section 7 to be sufficiently ambiguous as to possibly affect future interpretations of the intent of the Settlement Act.

Native sovereignty is a complex and controversial issue that warrants separate consideration by this Committee and the Congress as a whole. And the Sierra Club is not taking a position on that question here today. We simply recommend that Section 7 be deleted or clarified to make it consistent with the stated intent of the sponsors.

Section 10

This amendment, which would extend indefinitely the current (until 1991) tax-free status of undeveloped Native lands, is designed to prevent the loss of these lands due to an inability of a Native corporation to pay taxes or as a result of other legal actions.

This amendment is superfluous because Congress has already provided a mechanism for retaining undeveloped Native lands in a tax-free status beyond 1991. Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) established the Alaska Lands Bank. Lands placed in the bank and left undeveloped are free from taxation, and the Native corporations receive assistance in fire control, land use planning, trespass control, wildlife management, etc.

Negotiations are currently underway between the U.S. Fish and Wildlife Service and Native corporations in the Bristol Bay and Galena areas. The Service intends to sign a Land Bank agreement with the Galena area villages this week. However, few Native corporations have availed themselves of the Land Bank opportunity to date, probably because they do not have to pay taxes until 1991.

I am aware of only two arguments against reliance on the Land Bank. One, advanced by a member of Senator Murkowski's staff, is that the federal agencies have been "dragging their feet." Perhaps, but more likely is the present tax-free status of all Native lands, a status that tends to reduce the incentive for using the Bank. As 1991 approaches, we can expect to see the Bank option given serious consideration by more Native corporations.

A second argument is that the negotiation of the Land Bank agreements involves administrative costs and the services of lawyers, which many of the village corporations cannot afford. Our response is that a Land Bank agreement brings with it many economic benefits in the form of the assistance referred to above that otherwise would have to be paid for. As for the legal costs to the corporations, perhaps there is a role here for the Alaska Legal Services, which already provides considerable legal assistance to Alaska Natives, or the Bureau of Indian Affairs.

In summary, the proposed tax exemption is premature and should be deferred until Land Bank agreements have been tried. Meanwhile the Committee could review the existing Land Bank program with an eye to improving it if necessary.

Thank you for this opportunity to appear here today.

Senator MURKOWSKI. I wonder, Mr. Hession, if you would clarify your thoughts on Section 7(c). You indicated that it could be done away with or something could be added, perhaps a provision that allowed the option of transferring assets to other entities, which would mean a village corporation could change its status. Do you favor that provision or that option?

Mr. HESSION. Isn't that Section 11, the transfer to other entities?

Senator MURKOWSKI. Section 7—7(a) specifically.

Mr. HESSION. We have no problem with that whatsover, provided that legislation history makes clear that we're not indirectly getting into the question of Native sovereignty in doing so. As long as those other entities are neutral on that point, fine.

Senator MURKOWSKI. My concern is that in your statement you indicated that Section 7 was intended as a disclaimer by the cosponsors of this bill and the Alaskan Federation of Natives. This section has engendered considerable controversy. So I assume that's your statement, you're not taking a position, but you're aware of the controversy.

Mr. HESSION. Well, we're not taking a position on Native sovereignty, but we do see that section as sufficiently ambiguous to require additional clarification.

Senator MURKOWSKI. We would appreciate it if you would submit any suggested language that would address that section.

Mr. HESSION. I'd be happy to do so, Senator.

Senator MURKOWSKI. Concerning section 10, that is the provision on taxation, is it your position or the position of the Sierra Club that because of the provision for the Land Bank you don't see the need for the section which addresses taxation? Basically what we're doing is we're going from the previous legislation which said it all becomes taxable 20 years after it's received to a new provision which says that if it generates revenue it's taxable.

Mr. HESSION. Yes, sir. We simply are arguing at this point the idenfinite extension is premature. Let us see if we can improve or perfect is premature. Let us see if we can improve or perfect the ANILCA Land Bank between now and, say, the end of this decade. And if that's not possible, then we should look at this indefinite extension. But we see the Alaska Land Bank as——

Senator MURKOWSKI. Well, let me make sure I understand you. You said indefinite extension. What I'm curious to know is your position on whether land that generates revenue should be taxable.

Mr. HESSION. Yes, I understand that's the case at present, that's the status quo.

Senator MURKOWSKI. But now in 20 years it's all taxable.

Mr. HESSION. Yes. Fine. In summary, the taxation provision should continue, but I think we should allow the Land Bank of ANILCA to cut in to pick up the undeveloped lands. We see benefits for both the public and the Native corporations in banking those lands.

It's an experiment. The point is, it hasn't been fully tried, and I think you can help the process along by investigating the circumstances of why it's been so long before these first agreements have come forward.

Senator MURKOWSKI. Well, you know the wisdom of Congress, I can't tell you why other than I gather that there's one experiment in California where they have a Land Bank in agriculture and I gather it hasn't worked successfully, and I can't begin to tell you why. There are several concerns with the Land Bank. One is that theoretically it would be a shield or shelter for land that otherwise could be taxable, but in a land bank it could be revenue-producing and be non-taxable. Someone else could see it as an issue where the fish and game management would not be managed by the State but could go on and on and on.

Mr. HESSION. Could I comment on that last statement.

Senator MURKOWSKI. Surely.

Mr. HESSION. One of the reasons the Gana-a-yoo agreement has been delayed is that, it's my understanding at least, that the U.S. Fish and Wildlife Service,was awaiting the comments of the Alaska Department of Fish and Game. Those comments have come through. Everyone is in agreement, and this agreement is about to be signed.

Senator MURKOWSKI. And the State will continue to manager the fish and game?

Mr. HESSION. Yes, sir, I would urge you to review this first agreement in view of the proposals before you.

Senator MURKOWSKI. We have done that. I have no further questions of the panel. I want to thank you for being with us today. We appreciate your constructive recommendations. Thank you.

We will move to panel 11, Willie Kasayulie Clarence Alexander of the Alaska Native Coalition; Richardo Worl of the Alaska Native Magazine; and, Dr. Nancy Yaw Davis. That makes up panel 11, and that constitutes the final panel on the first page of the agenda.

I occasionally have the option of adding commercials here, and this is along the same subject, but the staff had done a little reseach on the California Land Bank experiment. Evidently in California, they get penalized by taxing the conversion of the land from, say, agriculture to urban for development status. So as in the case of Alaska, we had subsistence lands or agriculture lands in a bank, the issue is basically one of the holding time and who should pay. Should our Native lands have a penalty when the lands come out of the bank or change the status. I wanted to put that in the record because it would reflect on the dilemmas that others were having with the land bank problem.

I would entertain testimony now from panel 11.

STATEMENT OF WILLIE KASAYULIE, CHAIRMAN, ALASKA NATIVE COALITION

Mr. KASAYULIE. Thank you, Senator. My name is Willie Kasayulie, from the Village of Akiachak I'm here today testifying as Chairman of the Alaska Native Coalition, which represents the views of IRA and traditional councils throughout the State who favor Native self-government.

The Coalition is opposed to Senate bill 2065 as it is presently drafted. Our critique of the bill and proposed language to correct its faults are attached to my oral testimony in the form of a letter from the Coalition to Janie Leask of the AFN.

Senator MURKOWSKI. It will be retained in the subcommittee files.

Mr. **Kasayulie**. That letter refers to H.R. 4162, which in all material respects except one is identical to Senate bill 2065. The only difference is that the House bill declares this to be Indian Legislation and the Senate bill does not. This bill is Indian Legislation, the primary purpose of which is to protect Native lands and should be clearly set forth as such.

While our view is that the bill fails to go far enough in a number of respects, I will only set forth a few of these major defects.

First, the qualified transferee entity provision was designed to provide for transfer of village and regional corporation assets directly to tribal governments, whether they be Indian Reorganization Act councils or traditional councils.

It is not clear that this can be done directly in the case of regional corporation lands. Also, the bill does not now expressly state that tribal governments are the intended recipients.

It should expressly so provide, and we offer language to that effect.

Second, the saving clause must be included as part of the bill. ANCSA was passed in 1971 to settle aboriginal land claims. It was simply not dealing in any way with issues of tribal self-government.

If there is any principle of Indian law that is unquestionable, it is that tribal powers of self-government continue unless and until expressly extinguished by Congress.

ANCSA did not expressly alter in any way the legal nature or status of any of the Alaska Native tribes. Nor did it change the pre-existing relationship between the United States and the Alaska Natives as members of such tribles. Particularly, the Settlement Act neither terminated the tribes, nor the status of Natives as tribal members.

The savings clause as presently drafted unnecessarily draws a distinction between Native councils and federally-recognized tribes.

The bill must make clear that the relationship between the Alaska Native villages and the Federal Government is a tribally-based relationship and not a federal relationship with some sort of second-class social club as the bill could be read to suggest.

Third, the Land Bank provisions should include protection for the many village corporations which have already been involutarily dissolved for failure to comply with technicalities of state corporate law.

We offer language to pemit transfer of corporate lands to tribal councils notwithstanding such involuntarily dissolutions.

Finally, I urge you to go further than this bill presently does, and enact all of the proposed legislation of the Alaska Native Coalition which is attached to this testimony.

It does not single out Alaska Natives for any special treatment or benefits. To the contrary, its primary thrust is to halt discrimination against Native governments and confirm that Alaska Native tribals have the same rights, powers and protections as tribals in the Lower 48. Thank you.

Senator **Murkowski**. I would ask that you wrap up your concluding statement, please.

Mr. **Kasayulie**. That concludes my statement.

Senator **Murkowski**. Good, you're right on time.

Since it's something that you brought up, I might explain to you, Willie, that you're absolutely, correct, the House bill states Indian Legislation, and the Senate bill does not. The reason is that the House does not have an Indian Committee, per se. The Senate has a Select Committee on Indian Affairs. The Senate parliamentarian dropped the word "Indian" from the legislation because the appropriate committee in the Senate is the Energy and Natural Resources Committee, which used to be the old Interior Committee, and the House has concurrent referrals and the Senate does not. If you don't understand that don't feel bad, but there's no good reason for it, but that's the reason for it.

Mr. KASAYULIE. I do have one request, Senator.

Senator MURKOWSKI. Sure.

Mr. KASAYULIE. Will your committee be able to conduct hearings in Bethel? We do have a lot of people that are very much interested in the Act and the language. So we would appreciate if your Committee would be able to set a schedule for Bethel.

Senator MURKOWSKI. We had a request, as you know, from the President of Calista, Nelson Angapok, and we will make every effort to try and make the accommodation.

Senator Stevens is with us now, and I understand that we will spell each other, and I'm due for a spell.

So with that, Senator Stevens, we're on panel 11. Willie has testified, and we have the remaining witnesses, Ricardo Worl and Nancy Davis.

Senator STEVENS [presiding]. I'm sorry to be so late. There was a meeting of the government employees, and they had lots of questions about the recent economy here. I do thank you, Senator Murkowski.

Our next witness is Ricardo Worl.

STATEMENT OF RICARDO WORL, MANAGING EDITOR, ALASKA NATIVE MAGAZINE

Mr. WORL. Thank you. My name is Ricardo Worl. My Tlingit name is Gaachgweina, and I am a member of the Shangookeidee Clan. I originate from Klukwan and Haines in Southeast Alaska. I am a shareholder in Klukwan, Inc., and Sealaska Corp.

I graduated from Dartmouth College and returned to work in our family business. I currently live in Anchorage and serve as the Managing Editor for Alaska Native Magazine and as a Research Association with Chilkat Institute.

In these capacities, I have had the opportunity to visit various parts of Alaska and study many of the issues impacting on Alaska Native societies, including the 1991 issues.

Native people have identified two basic problems to be addressed by the 1991 legislation. The first one is the maintenance of Native land in Native ownership; and the second is self-government.

Non-Native people have identified a host of other problems with the 1991 legislation which seem to center on their fear that they will be deprived of their rights to Native lands and to govern Native communities.

Congress, of course, will be responsible for the final decision. As part of the process, I believe that the basic underlying philosophical issues of the 1991 legislation should be delineated.

Is the intent of the legislation to achieve social and economic assimilation of Native people into the western society? Is the purpose of the legislation to promote cultural pluralism which implies the survival of Native societies, or is the goal of the legislation to accommodate a balance that allows Native people to have the best of both worlds?

I believe that Congress has already adopted legislation that offers some solutions to the 1991 issues. I am referring to the Omnibus Act of 1976.

The language was simple. Congress reconveyed the Klukwan revoked reserve of 892 acres from Klukwan, Inc., to the Chilkat Indian Village which is the federally-recognized government of Klukwan.

It also conveyed 23 thousand acres to the corporation on Prince of Wales Island.

The experience of Klukwan should dispel the fears that tribal governments will deprive anyone of rights, but rather that the rights of all can be protected.

The Village of Klukwan has a land base to which all members of the tribe have rights, and that is further protected from alienation. It has a government that maintains a mutually-beneficial relationship with the state and municipal governments as well as the Federal Government.

Klukwan also has a corporation that has provided financial benefits to its shareholders, as well as providing employment to well over 200 non-shareholders or non-Natives.

As part of your deliberation, I would invite you to study the Klukwan case. I believe that it is designed to achieve the economic and political goals we desire. Thank you.

[The prepared statement of Mr. Worl follows:]

U.S. Senate Hearings
1991 Legislative Hearings
Anchorage, Alaska
May 27, 1986

KLUKWAN: A MODEL SETTLEMENT FOR 1991

My name is Ricardo T. Worl. My Tlingit name is Gaachgweina and I am a member of the Shangookeidee Clan. I originate from Klukwan and Haines in Southeast Alaska. I am a shareholder in Klukwan, Inc., and Sealaska Corporation. I graduated from Dartmouth College (which was supported in part by funds from my village corporation) and returned to work in our family business. I currently live in Anchorage and I serve as the Managing Editor of Alaska Native Magazine and as a Research Associate with Chilkat Institute. In these capacities, I have had the opportunity to visit various parts of Alaska and study many of the issues impacting on Alaska Native societies including the 1991 issues.

Native people have identified two basic problems to be addressed by the 1991 legislation: (1) the maintenance of Native land in Native ownership, and (2) self-government. Non-Native people have identified a host of other problems with the 1991 legislation which seem to center on their fear that they will be deprived of their rights to Native land and to govern Native communities.

Congress, of course, will be responsible for the final decision. As part of the deliberation process, I believe that basic underlying philosophical issues of the 1991 legislation should be delineated. Is the intent of the legislation to achieve social and economic assimilation of Native people into the western society? Is the purpose of the legislation to promote cultural pluralism which implies the survival of Native societies, or is the goal of the legislation to accommodate a balance that allows Native people to have the best of both worlds?

Klukwan can be used as a model to resolve some of the 1991 issues. The case of Klukwan also demonstrates that it is possible and that it can be beneficial to both Natives and non-Natives. Congress has already enacted legislation which has parallels to legislation that is being sought by many Alaska Native communities. I am referring to the Omnibus Act of 1976. The language was simple, Congress reconveyed 892 acres of the revoked reserve from the village corporation, Klukwan, Inc., to the Chilkat Indian Village which is the federally-recognized government of Klukwan (The land or revoked reserve had been conveyed to the village corporation under the terms of the Alaska Native Claims Settlement Act of 1971). The Omnibus Act also authorized another 23,000 to be conveyed to village corporation.

The village of Klukwan has a land base to which all resident members have rights and the land is further protected from alienation. The village council maintains a government-to-government relationship with the federal, state and municipal governments. Klukwan also has a village corporation that has provided financial benefits to its shareholders as well as providing employment to well over 200 non-shareholders or non-Natives.

As part of your deliberation, I would invite you to study the Klukwan case. I believe the Klukwan model offers the opportunity to achieve the economic and political goals we desire. The experience of Klukwan should also dispel the fears that tribal governments will deprive anyone of rights, but rather that the rights of all can be protected.

Senator STEVENS. Thank you very much.

Let me say that after Dr. Davis' statement, we will take a break so that the members of the staff can take a little rest and maybe get a coke and brush their hair—Tony's got to brush his hair. So everybody has notice of that now. When we come back we will proceed with panel 12.

Nancy, it's nice to see you.

STATEMENT OF DR. NANCY YAW DAVIS

Dr. DAVIS. Nice to see you. Thank you. My name is Nancy Yaw Davis. I was born and raised in Sitka, Alaska, but I'm not an Alaska Native. I do not speak for any group, but as a concerned citizen with specialized knowledge of small communities.

Nearly all my research has been Alaska-related. Two of my early contracts were with the Land Use Planning Commission in which I addressed the question of the land claims at that time. That was 1976 and 1979.

Most of my recent research has been funded by the Department of the Interior, Minerals Management Service, preparing baseline data with rural Alaskan communities.

Today, I would like to share with you five points based on my analysis of research recently conducted in 11 small villages.

I'd like to make it clear that I have alerted Minerals Management Service that I wanted to present selectively a few of these findings. The report is in draft form and under review.

This research was from November of 1984 to May of 1985, and 11 small communities where about 1700 Natives live in the North Pacific.

Now, first of all, I believe the geographical dispersion of shareholders will increase between now and 1991; that the percentage of original shareholders actually living in the villages will decrease, the overall population in the villages will continue to increase, and their relative influence in corporate decisions will decrease. The proposed amendments must take these trends into account.

Here are some of the findings. I'd like you to look at the distribution of regional corporations and shareholders for one reason, which revealed that 51 percent of the shareholders of that region did not live within the boundaries of that region. In 1985, 35 percent lived outside in 44 different States, and 15 lived in 47 other Alaskan communities.

There are shareholders in this region in every region of the State. Less than 25 percent of the shareholders in the region actually live in the villages, the six villages of the region, and the other 25 percent live in the regional town. With less than 25 percent of the total votes, resident villages are obviously not well represented when decisions are made concerning the amendments. And that percentage, I suggest, is decreasing all the time.

There's one small village that represents only 2 percent of the whole region, and yet the special concerns of that village must be looked at with much higher percentage than that.

Does that light mean that I'm running out of time already, and when it goes red, that means break time for everybody?

Well, given this data, it is clear that the regional corporations will continue to be strengthened over time, even without any 1991 amendments.

And I'm not speaking for or against the amendments, because, frankly, I don't understand them yet, and it's very humbling to try to understand them within the context of very small communities where just the terminology alone is confounding.

There are a couple of major village values that I think should be considered by the committee. One is that the marriage patterns are such that if it's not the local resident's pattern, that is, where a man would move to the village of his wife; when he get there, he's not a corporation member. And in the old days he would have his wife's relatives to support or to give him access, say, to fishing rights and hunting territories. But when it comes to job exclusively for shareholders, he's left out.

And one young man who receltly moved to a village says, I have no rights here, and he felt he could say nothing.

Our third finding is that there's further difficulties at the local level, and many villages, an adult man, if they don't marry—see, if they do marry, they move out and go to their wife's village; if they don't marry, they stay. And some of the villages, three of them, had over 20 percent of the men in the communities that were not married, 50 or 60 men. That even inhibits the fellow that's moving in from another village more.

So the political ramifications within these small communities, given the basic traditional values, is complex, and then you add all these other levels and it's really awesome.

Another thing that I found which was with increasing difficulty was with land. Land is a commodity. It's a new and peculiar phenomenon that brings about altered arrangements with people at Koniag. You have new ramifications on economic criteria. These changes are often a disruption.

I found people less and less willing to talk about the land claims compared to the early seventies when it was a hot topic. There was a sense that it was almost one of apathy and discouragement and embarrassment that what was happening.

Now with the sale of land now, the ones that can afford it have teachers. There are more teachers in the small communities. You have the new elite developing with additional stresses.

I want to call your attention to a culture value of conflict avoidance. And one of the ways you can maintain your cool in a small community would be to avoid conflict.

I think this is a strong, and especially needed value. Small villages must become accustomed to conflict in many areas. One of the qualities of the very small village is the high value with conflict avoidance. It may be absolutely necessary to live in a small community for various periods of time. If there's too much contention then people must move. This is an alternative that is becoming increasingly difficult because housing and schools stabilize even the smallest communities. These seven communities that I was working with, the smallest is 51 and the largest was 87.

Conflict avoidance takes great skill, as you can imagine. One leader said whenever trouble comes to his village, quote, "we let it ride". Ultimately, that may be the only way to handle trouble and also live there. But the social skills that it takes to live here and run the village of a hundred or 200 residents are important factors. You need skills to massive land claims, to make decisions on very difficult and painful issues and listen to the response from outside. It places a great stress on these skills.

I think this gives some kind of an insight that if there are communities that are not actively participating and fighting, it is because the value conflict is very intense.

[The prepared statement of Dr. Davis follows:]

TESTIMONY OF
NANCY YAW DAVIS, PH.D.
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON SENATE BILL 2065
AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Anchorage, Alaska
May 27, 1986

My name is Nancy Yaw Davis. I was born and raised in Sitka, Alaska but I am not an Alaska Native. I do not speak for any group, but as a concerned citizen with specialized knowledge of small communities. I have an M.A. from the University of Chicago and a Ph.D. in Anthropology from the University of Washington. Between 1960 and 1975, I taught over 60 courses in the different Anchorage universities. Since 1976, I have been an independent researcher; since 1979, as President of a small research firm, Cultural Dynamics, Ltd.

Nearly all my research has been Alaskan related; my expertise includes knowledge of the anthropological literature about the state and field research with small villages in nine of twelve Native regions. I have articles published by the National Academy of Sciences and the Smithsonian Institution. Two of my early contracts were with the Land Use Planning

Commission of Alaska and in both I addressed the question of the implications of the land claims at that time -- 1976 and 1979. Most of my recent research has been funded by the Department of Interior, Minerals Management Service, preparing baseline data with rural Alaskan communities.

Today I would like to share with you five points based on my analysis of research I recently conducted in 11 small villages. Some of the information was gathered for the MMS, and our draft document, called "Small Communities in the Kodiak-Shumagin Region," is currently under review by Minerals Management Service, and not yet public. However, I felt several of my conclusions are significant enough to present here today. I have informed MMS of this, and the specific data about the villages and regions can be entered into the record at a later time.

Here, then, is what I learned between November, 1984 and May, 1985 when I asked, among other questions, how the land claims had changed life in 11 villages of the North Pacific. Whenever possible, I will address how the proposed amendments might affect the villages. However, I find the amendments difficult to read and understand, so I hesitate to be specific at this time. I hope the following information will help as you consider the proposed changes.

First of all, I believe the geographic dispersion of shareholders will increase between now and 1991, that the percentage of original shareholders actually living in the villages will decrease, the overall populations in the villages will increase, and their relative influence in corporate decisions will decrease. The proposed amendments must take these trends into account.

Here are some of the findings on which I base the above statements. Nearly 1700 Natives live in the 11 small villages. Many are not shareholders in any corporation, and many shareholders who are enrolled to these villages do not actually live there. The shareholders are distributed throughout Alaska and throughout the other States. For illustration, the analysis of the regional corporation, Koniag Inc., revealed that 51% of the shareholders do not live within the boundaries of the Region. In 1985, 35% lived Outside in 44 different states and 15% lived in 47 other Alaskan communities.

There are Koniag shareholders in every Region of the State. Less than 25% of the total number live in the six villages on Kodiak Island; about 25% live in the regional town of Kodiak. The shareholders who actually live in the villages often represent less than half the total number of people enrolled to the village. With less than 25% of the votes, resident villagers are obviously not well represented when decisions are made at this level.

Looking at the village corporations, in only 3 villages out of the 11 were more than 50% of the original shareholders actually living in the community to which they were enrolled. The average percentage was 42%; the range was from 19% to 75%. In many cases, shareholders have never lived in the village, and some shareholders are several generations distant from villagers. Further, the data on age distribution of village residents indicates that 35% of the villagers are under 15 years of age, and therefore not shareholders except by inheritance.

With respect to the so-called "afterborn," by 1991 in these villages the percentage will probably be closer to 50% as projected by the present distribution of young people. Few will have inherited shares, yet the total numbers of young people born to rural families will probably be greater than to those of the urban families. If the urban shareholders are worried about the decrease in value of stock by adding persons born after 1971, note that it is the villages that stand to benefit the most, but they are in the weakest position to work for this concession.

Given this data, it is clear the hand of the Regional Corporations will continue to be strengthened over time, even without any 1991 amendments. And what strengthens the Regional Corporations in most instances simultaneously weakens the village corporations. If the demise of the village corporations is intended and desired, then some alternatives must be found to separate the human dimensions with which these entities now deal.
Village needs will still have to be met.

Secondly, I would like to call to your attention certain Native social patterns that compound the problems reflected in the original act and in these amendments. Consider the marriage patterns of some groups. Young people grow up in the villages where they were enrolled by their parents, but they may marry individuals from elsewhere. Certain customary marriage patterns, such as matrilocal residence, lead men to leave the villages where they were enrolled and live in their wife's village. But here they will have no vote in the local corporation. This pattern has economic ramifications when jobs come along for shareholders of that village only. In this way, men marrying into villages are further left out; they miss out both on decisions back home and in the village where they are raising their families.

The mix of shareholders in different villages will vary by customary marriage patterns. The mix will also be influenced by trends that lead to population shifts as some villages grow more rapidly than others. These changes are shaped not just by the economy but also by critical features of the political and social milieu.

A third finding from my recent research suggests even further difficulties at the local level. In many villages the adult men, if they do not marry, stay in their home village. In three villages of this study more than 50% of the adult men are single, and living in their home village. This will likely make it even more difficult for the men who do marry in to have any informal or formal political power.

One young husband was enrolled in another region, to a different village. He could not compete for any job generated for shareholders only. In the old days, he would have been dependent on his wife's family for access to local resources such as fish sites and hunting territory. But jobs and money are new categories that do not come under the same rules. He commented, "I can't say anything in this village."

Fourth are several matters having to do with land. For example, the sale of land is a new development that is causing as great a revolution in human relationships as did the sale of labor when it was first introduced. As you are well aware, once conveyance of 14(c) lands takes place, then the village "city" can sell land. These sales were the source of great contention in several villages where this was occurring for the first time in their history. Often, only local teachers could afford the price, and there are more teachers in each community now that the high schools have been built. So the local elite has grown, the pressure for purchasable land is increasing, and many find the process disruptive.

In addition to the concern about non-Natives buying local land, there is increased tension over Natives trespassing on other Native's land. Much of this centers on allotments as they are surveyed and little by little conveyed to new owners. Land as a commodity is a new and peculiar phenomenon that brings about altered arrangements of people and can add new stratification on economic criteria. These changed conditions often are disruptive.

I found considerable confusion about the land claims at numerous levels. For one, people would answer my question about land claims with a comment on the native allotments, indicating the allotment program was to them the land claims. They may not be too wrong in this assessment; the only land some Natives are likely to receive is through the allotment program. It too is riddled with problems, but I will not take time to discuss them today.

Fifth, I want to mention certain persistent and important cultural values affecting village life. These values are involved in the problems I have discussed above and will likely continue to inhibit village participation in the land claims--at least, as presently structured.

In order to make the land claims work, villagers must become accustomed to conflict in many new arenas - intense, pervasive, disruptive conflict. Yet one of the special qualities, unique characteristics, of very small villages is the high value put on conflict avoidance. Indeed, avoiding conflict may be absolutely necessary in order to live in a small community for any length of time. If there is too much contention, then people must move. This is an alternative that is becoming increasingly difficult as housing and schools stabilize even the smallest village.

Conflict avoidance is a prevalent theme among many Alaskan villages, and it takes great skill. Note that it is one of the stated values of the Spirit Movement of the NANA region. But conflict avoidance and the issues of ANCSA simply don't mix very well. On the contrary, ANCSA is perceived as generating conflict at many levels. As long as people choose to live in small villages, they must hone their skills at conflict avoidance. One way to resolve problems is sometimes by not responding to them at all. As one leader noted for his village, when trouble comes up, "We let it ride." Ultimately that may be the only way to handle trouble and also live there.

The social skills it takes to live year round in a village of 100 or 200 residents are important, adaptive skills. The demands of the land claims to make decisions, to confront difficult and painful issues, and to listen and respond to outsiders puts great stress on these skills. Non-response may be the only effective way some villages have for both coping with the land claims requirements and also continuing to live in the village.

Thus, given the value of avoiding conflict and the difficulty of responding, it should be of little surprise that the 1985 study reveals that 61 villages had not filed state reports during the 3 year period of 1980-1983. That is, out of 172 villages, 29 had filed no reports at all, and 32 had not in recent years. In all, 35% filed no reports in 1980 - 1983. This single piece of data on village corporations highlights how very little is really known about what is happened at the villages level. Indeed, most of the 1985 study concerns Regional Corporations, as do the amendments before you now.

My final point is this: As I read the amendments there is absolutely nothing that guarantees the small villages will be strengthened. If in fact the amendments serve to further enhance the power of management and the Regional Corporations, then something must be done to strengthen the very small villages so they are allowed the dignity of surviving as unique and valuable communities. Each small, isolated village is, in a sense, a national resource, a unique constellation of people with technical and social skills quite different from those held by the Western world, or even for that matter by their urban relatives.

I believe this Nation is big enough, and strong enough, to take specific steps to ensure the continuity of its human cultural diversity as represented in village Alaska. The proposed amendments seem to counter that responsibility; unwittingly they will undermine those villages, just as surely they will also enhance the economic survival of the regional corporations. The amendments must be designed in such a manner that the strengthening of the regional corporations does not further weaken the very special small communities of the North.

In conclusion, I urge that the amendments be critically reviewed from two extreme positions: one, the successful regional corporation in the center of valuable Alaskan real estate, and two, the very small, isolated village on the edge of the tundra, along a waterway, among the forest and the trees, where people choose to live a with a different set of values that includes a conscious avoidance of conflict.

I urge this committee to give more than equal weight to the concerns of the very small villages; they deserve your concern and your attention. We have a long way to go to understand them and even further to go to design ways to enhance their continuity.

Thank you for this opportunity to share with you my concerns as one Alaskan social scientist.

Senator STEVENS. Let me look at that report, Nancy. We look forward to going over it. As we go along, if there are some of these things that you may be able to help us with, Frank and I would be most appreciative.

Dr. DAVIS. Thank you for the opportunity of sharing these few things with you today.

Senator STEVENS. As I said, we're going to take a break for the staff.

We're going to go off the record for a break at this time.

[Whereupon, a 30-minute recess was taken.]

Senator STEVENS. We'll call the hearing to order now. I will read the names of the first panel. If you are here, would you please come forward. Dick Randolph; Bob Johnston; Warren Olson; Rupe Andrews; Phil Driver; Darryl Farman; James Reiss. That's this panel. After this panel is over, we will then turn to panel 13.

Dick, it's nice to have you with us. We're pleased to have your testimony. We will give you a slight concession because thare are no other people on your panel.

STATEMENT OF DICK RANDOLPH

Mr. RANDOLPH. Thank you, Mr. Chairman, I appreciate this opportunity to be heard on issues before Congress that impact all Alaskans, the Alaskan economy, Alaskan communities and the relationships between Alaskan people.

The proposed amendments to the Alaska Native Claims Settlement Act do impact the entire spectrum of Alaskan life. Their impact is not just limited to Alaskan Natives.

I understand and appreciate the concerns of the Native people and perhaps some additional time beyond 1991 is required but, these amendments are contrary, in my opinion, to the best interests of all Alaskan people. They do specify damage and create a general harm. Anything that creates divisiveness among our people is bad.

It is imperative that any amendment be done very carefully with full and meaningful opportunity for all of our Alaskans to have an input.

It's clear, given the fact that these specific amendments have been worked on by those supporting them and our congressional delegation for over three years, that other Alaskans need more than a few months to study and react.

I most sincerely request that any thought of passing divisive subsistence requirements. I urge you not to create a similar mess with these amendments.

But since Congress is giving serious consideration to the amendments which impact Alaskan life, I also offer you the following relevant and related data as relates to subsistance in the same survey as quoted above, the question was asked whether equal access, need or geography should be the test for subsistence priority; 44 percent of the respondents agreed equal access should be the rule; 37.8 percent said base it on need; 17.1 said base it on geography; 1.4 percent did not have an opinion.

I think it's important to note that 81.6 percent of all Alaskans show something other than that mandated by Congress in the

ANILCA provision and ask that it not do that again in the ANCSA that's disapproved by that wide a margin that the Alaskan people have to live with.

Alaska has tremendous potential. Alaska is blessed with resources, money and a young population willing to work hard and to take risks.

All of these are the ingredients of progress. We also have a State of unquestionable beauty and recreational values; ingredients that add to the quality of life.

Then all too often comes the Congress, the State legislature, or Federal or State bureaucracies to impede these or any other amendments this session be dropped.

The Alaskan people recognize the problem with these amendments. In a highly scientific survey of 506 randomly-selected adults, from the entire State, conducted within the last 15 days, several segments of these amendments were tested. I quote from the survey instrument, on the issue of whether Native corporations or village corporations should be able to govern all people, land, wildlife and other resources in their area, 36.7 percent agree, 58.6 disagree, and 4.6 have no opinion. On the question of should the Native corporations be able to keep individual Natives from selling their land and stock after 1991, 30.8 percent agree, 57.3 disagree, and 12.0 have no opinion. On the question of should Native-owned land be exempt from municipal taxes, 27.3 percent agree, 63.1 disagree and 9.6 don't have any opinion.

In addition to these, there is the very real and far-reaching question of Native sovereignty and the effect these amendments do or do not have. This issue is so basic and it affects so consequentially all of us, that it's imperative that hasty and ill-considered action not be taken. All Alaskans need time to study, to consider and to act.

Congress has created havoc in Alaska with its progress, lock up values and sew the seeds of discord and unrest.

I would ask you not to kill Alaska's spirit and future with more of these destructive federal acts. Thank you.

[The prepared statement of Mr. Randolph follows:]

Dick Randolph
1105 Cushman St.
Fairbanks, Alaska

327 E. Fireweed
Anchorage, Alaska

May 27, 1986
Anchorage, Alaska
Testimony - U.S. Senate

Mr. Chairman, I appreciate this opportunity to be heard on issues before the Congress that impact all Alaskans, the Alaskan economy, Alaskan communities and the relationships between the Alaskan people.

The proposed amendments to the Alaska Native Claims Settlement Act do impact the entire spectrum of Alaskan life. Their impact is not limited to just Alaska natives.

I understand and appreciate the concerns of the native people and perhaps some additional time beyond 1991 is required but, these amendments are contrary to the best interests of the Alaskan people. They do specific damage and create a general harm. Anything that creates divisiveness among our people is bad.

It is imparative that any amendments be done very carefully with full and meaningful opportunity for all Alaskans to have input. It's clear, given the fact that these specific amendments have been worked on by those supporting them and our congressional delegation for over three years, that other Alaskans need more than a few months to study and react.

I most sincerely request that any thought of passing these or any other amendments this session be dropped!

The Alaskan people recognize the problem with these amendments. In a highly scientific survey of 506 random-selected Alaskan adults, from the entire state, conducted within the last 15 days, several segments of these amendments were tested.

I quote from the survey instrument:

"Some people are suggesting that Alaskan natives should be able to keep native land from being taxed by municipalities, that a native corporations should be able to keep individual natives from selling their land or native corporate stock after 1991, and that natives should be able to govern the people, wildlife and other resources within their area. Do you agree or disagree?"

Issue	Agree	Disagree	Don't know
Native corporations and/or village corporations should be able to govern all people, land, wildlife and other resources within their area	36.7%	58.6%	4.6%
Native Corporations should be able to keep individual natives from selling their land and corporate stocks after 1991	30.8%	57.3%	12.0%
Native owned land should be exempt from municipal taxes	27.3%	63.1%	9.6%

In addition to these there is the very real and far reaching question of native sovereignty and the effect these amendments do or do not have. This issue is so basic and its effects so consequential to all Alaskans that it is imparative that hasty and ill considered action not be taken. All Alaskans need time to study, to consider and to act.

Congress has created havoc in Alaska with its divisive subsistence requirements. I urge you not to create a similar mess with these amendments.

Alaskans are often told amendments in Congress are almost impossible. I hope these are. But since the Congress is giving serious consideration to amendments which impact Alaskan life I also offer you following relevent and related data:

In the same survey referenced above, the following question was asked:

"Some people prefer a subsistence law that is based on geography--giving first priority for fish and game resources to rural residents. Others prefer a subsistence law based on need---giving first priority for fish and game resources to those who are below certain minimum income standards. Even others say that all Alaskans should have totally equal access to fish and game resources and that regulation should be strictly along biological standards. Which do you prefer, a subsistence law based on geography, need, or equal access?"

Subsistence Law	Frequency	Percent
Equal Access	222	44.0%
Need	140	37.8%
Geography	87	17.1%
Don't know	7	1.4%

81.6% of the Alaskan people choose something other than what the Congress dictates. Please do not do that again with the ANCSA amendments.

Alaska has tremendous potential. Alaska is blessed with resources, money and a young population willing to work hard and to take risks. All of these are the ingredients of progress. We also have a state of unquestionable beauty and recreational values; ingredients to a quality of life.

Then all too often comes the Congress, the state legislature, or federal or state bureaucracies to impede progress, lock up values and sow the seeds of discord and unrest.

Do not kill Alaska's spirit and future with more of these destructive federal acts.

Thank you.

Senator STEVENS. Thank you for your statement. Concerning that poll on exempting Native lands from municipal taxes, you know, the proposal is not to exempt land, but only undeveloped land from municipal taxes.

Mr. RANDOLPH. Yes, I'm aware of that.

Senator STEVENS. I appreciate your coming and am happy to have you take the time to come in and stress your point of view, my friend.

Is there anyone else here from panel 12; Mr. Johnston, Mr. Olson, Mr. Andrews, Mr. Driver, Mr. Farman, Mr. Reiss?

[No response.]

Senator STEVENS. We will go to panel 13, which is Bartz Englishoe, Ann Lohrey, Jane Angvik, Maria Coleman, Thomas Abel.

Mr. Englishoe, we will go with you first.

STATEMENT OF BARTZ ENGLISHOE

Mr. ENGLISHOE. My name is Bartz Englishoe, and I'm Alaskan-Native born from Fort Yukon. My testimony was going to be on specific provisions in 1991 amendments or Senate bill 2065. That was, until I read the headlines in the Sunday paper, the Fairbanks Daily News, that read, Senators: "1991 Issue May Be Dead for 1986."

What a surprise. The request for delay was not listened to when shareholders from the various corporations and villages asked for the process to slow down. Now a few professional, anti-everything, individuals have slowed the process down by making the 1991 amendments too controversial.

It is beyond my thinking how a few individuals that make a profession out of writing, testifying and organizing meetings, against everything that is Native can have so much influence.

Various Native groups have traveled to Washington, DC, and were told time and time again that a concensus was needed among Native people. To accomplish a concensus, newsletters, meetings, teleconferences, retreats, village workshops, television and radio productions, the restructuring of AFN to include village corporations and statewide conventions were all initiated and used to keep people involved. In my opinion, the 1991 amendments is a concensus. Every region in the State that represents various meetings went through a give-and-take process that finally led to the 1991 amendments. To me the amendments are the middle-ground.

The 1991 amendments do not contain tribal legislation, strong tax language adopted by 1,000 Native delegates at the March, 1985, Special AFN Convention, or mandates on stock restrictions. Options were the base for the amendments.

Regional village corporations shareholders were given the option to decide on the issues. True, individuals and groups that wanted tribal issues incorporated in the legislation were dissatisfied. They were not a part of the consensus that wanted to limit the legislation to issues that were non-controversial by leaving out tribal rights' language.

A concensus was achieved by speaking to the issues and incorporating language that left the issue of tribal sovereignty to a later date.

Now a small, insistent and large group of individuals have taken simple language in the bill, whose purpose was neither to support, nor diminish sovereignty issues.

These individuals took Section 7(c) language of the bill and made it into a full-blown controversy strung out to stop the legislation the Native people have been discussing since 1981.

I have been listening to these anti-Native individuals and groups for a long time. Don't get me wrong, they're not only anti-Native but anti-everything.

You never hear these individuals make a causive statement about any action unless the action is against something.

There are legitimate concerns, but I really believe that if the 1991 amendments only ask for one simple action, like extending the stock restrictions, that these same individuals would be speaking against it, for the simple reason that it does not benefit them or their groups.

A lot of anti-legislation testimony I heard in Fairbanks on March 24th, 1986, was typical of the issues always thwarted when Native issues are discussed. This group always wants to bring Natives into our society.

It hasn't worked since 1914 and I don't think Native Americans are going to change in the near future. There is always comments on the privileges of Alaskan Natives, what they receive.

It wasn't but 20 years ago that signs read: Dogs and Natives not allowed, in front of restuarants and——

Senator **Stevens**. We're going to have to keep the testimony down now to three minutes for each person if we're going to get through the people that are listed and those that are here that want to testify. So I would appreciate it if you would summarize your testimony.

Mr. **Englishoe**. The testimony that I heard in Fairbanks, it seems like Alaskan Natives are always getting over on everybody, like we're the first-class citizens and the rest of the people aren't. Well, you just have to look beyond your nose to realize that this isn't so.

And time and time again the same individuals, you see their names in the paper all the time, writing to the editor and various newspapers. They constantly bombard what Native people are trying to do. They don't understand the issues, they haven't taken the time to analyze ANCSA or the amendments. And I believe that they have too much influence and too many people are listening to a few select groups that are paid by their groups and are given the time to take these stands.

I believe that the Native communities have come to a concensus and that this 1991 amendments should be passed. And I think the quickest way to get them passed is to take out language that deals with sovereignty, which I don't believe is in there, and instead put in language in the amendments that says that within one year that tribal legislation shall be introduced. This would allow the people that want tribal legislation to have a path to submit their legislation, and also would give the anti-sovereignty individuals a point of reference. It would give them specific legislation where they can express their concerns and not express their concerns on the 1991 amendments, which should pass this year.

Senator Stevens. Thank you very much.

Ms. Lohrey.

STATEMENT OF ANN LOHREY

Ms. Lohrey. My name is Ann Lohrey. I am a 20-year resident of Alaska, deeply concerned about Senate bill 2065 in its present form.

My specific objections are Section 7 and Section 10, which betray the intent of ANCSA, and, more significantly, it would institutionalize racism in this State.

In Section 2 of ANCSA, Congress bound and declared that settlement should be accomplished rapidly without establishing any permanent racially-defined institutions, rights, privileges or obligation without adding to the categories of property, institutions enjoying special past privileges.

S. 2065 turns this inside out with Section 10, which makes all undeveloped lands conveyed to an individual Native or Native group immune from real property taxes by any governmental entity.

I would not object to extending the original 20-year period of immunity for a fixed length of time or until reviewed by Congress at a specified later date, or if applied uniformly to everybody's undeveloped land. But to establish such a policy permanently based on the owner's racial background sounds to me to be exactly what ANCSA said was not to happen.

I am even more upset with Section 7. Good grief, if nothing in ANCSA shall be construed as a margin of diminishing or in any way affecting the scope of any government or authority of a federally-recognized tribe or any right, privilege or immunity of Alaskan Natives as Native Americans, what exactly did the Settlement Act settle? It is preposterous, 15 years, a billion dollars, and 40 million acres later to say that the conditions agreed to in ANCSA are that these matters are as they were before settlement.

In 1971, Congress bound and declared that no provision of ANCSA shall replace or diminish any right, privilege or obligation of Natives as citizens of the United States or of Alaska. How much clearer could that be? Nowhere was the phrase "Native Americans" used. ANCSA was to bring the Alaskan Native into the mainstream—or so we were told repeatedly at that time.

I felt distressed and betrayed when my Alaskan Senators said that the purpose of Section 7 is to keep the Native sovereignty issue out of 1991. It keeps it out all right, but it does so by revising ANCSA, subverting the original language, paving the way for court decisions favorable to sovereignty in the legal actions which are sure to follow.

I felt better, Senator Stevens, this morning when you made your opening remarks and offered to modify it so that it clearly does not do that.

An examination of the facts and common sense have led me to the inescapable conclusion that Section 7 does exist to resurrect the sovereignty issue which died and was buried on December 18 of 1971. The language in Section 7 originated with attorneys for Native groups who are working for Native sovereignty. These attorneys state in their own memorandums that the wording is to reaffirm the status quo of tribal government as it existed prior to ANCSA.

If the purpose of Section 7 is not to facilitate sovereignty, then why is it included at all? Surely now to prevent it, an amendment to preclude sovereignty would have reaffirmed that ANCSA was intended to be a final settlement of all claims, including sovereignty. That is why it was called the Native Claims Settlement Act, not the Native Land Allotment Act, nor the Alaska Native Corporations Act.

And quite obviously, Section 7 is not there to maintain the status quo. Status quo is maintained by the absence of amendment.

ANCSA was declared by Congress to be a fair and just settlement of all claims by Natives and Native groups of Alaska based on aboriginal land claims. The sovereignty issue is based on aboriginal land claims. The two are inextricably bound. One is sovereign only on his own turf. ANCSA stated settlement would be accomplished without establishing permanent racially-defined institutions, rights, privileges, obligations without creating a reservation system. Call it what you will, a reservation system, aparthied, Native sovereignty, this issue was settled by the 1971 bill.

I respectfully urge you to modify Section 10 of this bill with the inclusion of a reasonable time limit on the special privileges it bestows and to remove Section 7 entirely and let ANCSA stand as it was. Thank you for the opportunity to present my views.

Senator **STEVENS**. Thank you.

Maria Coleman.

STATEMENT OF MARIA COLEMAN

Ms. **COLEMAN**. Yes, I'm Maria Coleman. I, on behalf of myself and other shareholders, oppose AFN's 1991 legislation as submitted.

I'm against their amendments because they are proposing anti-shareholder legislation. If passed, it could turn into anti-Native law.

S. 2065 can either be a loophole nightmare or a dream come tue, depending on which side of the fence you are on.

The nightmare would be for the shareholders and the inexperienced managers. The dream would be for the professionals. The loopholes could be used by non-Natives against our well-being.

This legislation can meet the test for granting a preliminary injunction. Attached, I am submitting a written opinion, which should support my statement.[1]

I urge the reading that document be a priority. There is more at stake here than just the questions on sovereignty.

In addition, I would like to add the following to the record. ANCSA was a settlement. It was a penalty paid to compensate for a major wrong done a nation. The very government and people that pride themselves in standing up for freedom, took not only freedom, but land and dignity from the Alaskan Natives.

ANCSA is minor compared to the billions of dollars that the U.S. spends to promote humanity in other countries.

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[1] Retained in subcommittee files.

The proponents of sovereignty and ANCSA have presented ideas that have the characteristics of double jeopardy. Their comments promote a rejecting of or freedom, a retaking of our land, and a retaking of our dignity.

In response, to Murkowski's comments towards Alaska Legal Services; Alaska Legal Services are litigating several public entitlement issues, they are not being satisfied or appropriately dealt with at this time by Congress or the State, as far as I or Alaska Legal Service knows.

I also thank you for this opportunity to present my views.

Senator STEVENS. Who prepared this attachment, Ms. Coleman?

Ms. COLEMAN. I did it myself. Thank you.

Senator STEVENS. Thank you.

Our next witness is Thomas Abel.

STATEMENT OF THOMAS H. ABEL

Mr. ABEL. Thank you, Senator. My name is Thomas H. Abel. Today I am representing myself as a Haida, a member of the Haida Nation. I also am the Secretary of the United Tribes of Alaska, Chairman of the Board of Cook Inlet Native Association, the Secretary of the Craig Community Association, and a Director of John Seat, Incorporated; the village corporations formed under ANCSA the amendments to which we discuss today.

I would first of all like to read to you the President's policy on Indians, and this administration intends to restore primal governments to their rightful place among the governments of this nation, allowing the country governments along with state and local governments to resume control over their own affairs.

First of all, I greet you in the name of my honored forebearers, the traditional leaders of the Haida Nation, who once traversed the oceans in mighty cedar war canoes, and who were known and recognized from Mexico to the Aleutians.

Our people live and come from Haida Gwaii, our ancestral islands and waters. These areas encompass territory now claimed by the United States, Canada and the Haada Laas. These include the Queen Charlott Islands, and the southern half of the Prince of Wales Island, and all of the adjacent islands and waters.

The Haida language is not included in any other aboriginal language group, and it supports our oral history which iterates our origins and existence in well-defined territorial terms.

I will leave some of this out in order to make my talk of the more important issues.

Recent history records Haida's attempts to claim territorial lands, waters and resources. These efforts have included organization under the Indian Reorganization Act, as amended, to include Alaska, formation of a city government under territorial law, a coastal zone management plan and several other plans.

All efforts have been rebuffed or usurped insofar as jurisdiction and control of our own lands and waters are concerned.

The imposition of western kinship systems, federal law and isolation from traditional resources has consistently denied the Haida from regaining the level of self-sufficiency which was existent prior to contact.

During this period, the Haida, as a people, have never relinquished aboriginal title or rights according to any applicable laws. The title of the Haida may not be extinguished by imposition of artificially-created methods of granting title or rights which systematically exclude our full participation and consent.

I will conclude my remarks by briefly stating that the Alaska Native Claims Settlement Act has not worked, nor does it seem to have been designed to work.

By this Act our people have been divided and our children ignored. Our lands have been reduced and checker-boarded. We must sell resources for minimal return and are forced to compete in an economic system for which we were not prepared.

Taken wholistically, it can be safely assumed that the Alaska Native Claims Settlement Act was destined to fail.

As compared to other settlement acts consummated by other tribes, the ANCSA appears clearly aligned with previous special legislation which is referred to as termination legislation.

Although we were supposedly granted 44 million acres of land and $900 million, there has been little said concerning our original claims to over 350 million acres.

Remember, the restrictions on land selection which restricted local required contiguous selections did not consider resource values either in economic terms or traditional terms.

We received what we got where we got it. The amounts were not set—were set, and no one assessed the probability of economic success or lack of it.

Every basic law of busifess was ignored and still we were told of the fairness and justice of the ANCSA.

Senator **Stevens**. I'm going to have to ask you to summarize now.

Mr. **Abel**. Yes, I have a couple more minutes. Thank you.

Senator **Stevens**. You don't have a couple more minutes.

Mr. **Abel**. Yes. Okay. The inherent rights and authority of Alaskan tribes must be placed on the table, and the viability of utilization of tribal rights as a vehicle to achieve economic self-sufficiency begs to be considered.

The continued exclusion of tribal government must cease and a discussion must begin regarding the method of integrating tribes with economic development as a natural function.

In closing, I wish to remind you that it was the villages who formed the Alaska Federation of Natives, not to be confused with the Alaska Federation of Natives, Incorporated. And also to remind you that today the villages have once again become solidified in seeking equity which does not appear to exist, nor seem attainable under the ANCSA.

In summary, I would say to you that it is very difficult to fix something that does not work. And I thank you for the opportunity. This will be typed and I will transmit it to you in typed form.[2] Thank you.

Senator **Stevens**. Thank you very much.

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[2] Not received.

Now, I'm going to turn to Jane Angvik, but before I do, I want to remind those who are in the audience that we indicated that those who are in attendance and who want to testify may, but they have to sign up as a witness. You have to see my friend here, Mr. Bevinetto, if you wish to testify before the hearings are closed. If each person who appears wants three minutes, we will listen to you as a witness.

All right, we will now hear from Ms. Angvik.

STATEMENT OF JANE ANGVIK

Ms. ANGVIK. My name is Jane Angvik, A-n-g-v-i-k. I am a 13-year Alaskan resident, and during that time have been privileged to work with several Native organizations. I have served on the Anchorage Municipal Assembly for the past six years. I'm one of those peculiar people who has had both urban and rural experience during the time that I have been in Alaska.

I'm here today in support of the amendments before you. There are others through the legislative process whereby the amendments came to be, and there are others who are certainly better suited, as attorneys or other technicians, to be able to describe the mumbo-jumbo of the language as its application would occur should they be adopted.

I have three brief points to address today. First has to do with choice and what I believe is the essence of the amendments before you. The majority of the corporations in the United States of America are privately-held. And it seems to me that when the decision is made for those privately-held corporations could go public, it is in fact the owners of those corporations who make that decision.

The primary request that these amendments provide is that very same choice that is afforded all shareholders of all corporations in the United States of America; that the shareholders themselves, the owners, be the people who have the opportunity to determine whether or not their corporations go public.

This is not weird, this is not unusual, this is not peculiar, in fact, it is clearly within the confines of the American economic system, that the owners themselves will be able to have that right.

My second primary point has to do with the great Section 7, and that has to do with, in my opinion as well as those of several others, the intention of 7(c) was to say this issue has nothing to do with sovereignty.

I know you have heard a dozen speakers who have said it does. And I guess my suggestion is that you delete the whole damn thing and let silence take the high road in terms of discussing it. That is not a party-line of Native organizations, but I just think saying nothing on the subject has the exact effect of saying it has nothing to do with sovereignty.

My third point has to do with taxation. As a person who has served on the Anchorage Assembly during the past six years, I've prepared budgets, I've set mill rates, I impose taxes and participated in the foreclosure of property of people who failed to pay taxes within the Municipality of Anchorage. In the past six years, I have watched local governments, this one in particular, their growing dependence on the State of Alaska for revenues to operate their government.

Clearly in this year, as oil prices have declined, you also have observed the decline of State revenues and the ability to provide support to the local governments.

It is my opinion that the protection of the real taxes on the undeveloped lands is critical to the 1991 amendments before you.

There is no doubt in my mind that as the State of Alaska and its municipal governments throughout the State seek additional sources of funds to be able to run their governments, that they will in fact take the opportunity to tax undeveloped Native-held lands when that opportunity should arise.

There is no doubt in my mind that since the Native lands of Alaska represent over 95 percent of the privately-held lands in Alaska that they will become the primary target of areas whereby both local and State government will be looking for money to be able to run the government.

It is my belief that this will occur if this amendment does not pass.

Clearly if you, Senator, and your colleagues who adopted the Alaska Native claims Settlement Act in 1971, intended to provide 44 million acres to the Alaska Native peope, you did not intend that they should only have it for a 20-year period of time.

It is my belief that the taxation issue must be included in the 1991 amendments if the land is to remain in the hands of the Alaska Native people.

Finally in conclusion, I'd like to say that the continuation of the non-taxation policy is not only in the best interest of the Native land-owners, it is also in the best interest of Alaskans as well as also in the best interest of Americans.

It is in the best interest of Alaskans because, if over 95 percent of the privately-held land in Alaska is owned by Alaskans, the rest of us have an opportunity to talk and communicate with them, to try and work out agreements, as opposed to having any portion of Alaska or at least something as large as that owned by people in Salt Lake City, New York or any other part of the world.

Alaskans benefit when Alaskans own this land.

Secondly, I believe Alaskans will benefit from the non-taxation policy because we will figure out how to solve our financial woes by diversifying the economy instead of simply appropriating and selling Native lands.

And finally I would argue that it is of benefit to all of the United States, it's a benefit to all the Americans that the U.S. Government continue this non-taxation policy because that will provide a strength for the corporations themselves. When those corporations do become successful, they will also make profits and then they will be able to pay taxes to the U.S. Treasury.

Should those corporations fail, that particular loss to the U.S. Treasury would be great.

Finally in conclusion, I would say give Alaska Native owners of corporations the exact same choice that every private owner of every private corporation in the U.S. Government has.

Secondly, that this legislation has nothing to do with sovereignty; and, third, the prohibition of taxation is in the best interest of not only Alaska Natives but all Alaskans. Thank you.

Senator STEVENS. Thank you very much. Jane. I appreciate your appearance and your very strong points.

Ms. Lohrey, you know, in 1971, or prior to 1971, the sovereignty issue was not before Congress, nor before the State legislature; therefore, there is nothing in the report or in the bill that deals with the question.

It has been raised since that time, and to ignore it now could lead to the interpretation that we have in fact amended the 1971 Act with regard to sovereignty.

I would urge that you reconsider that point, because in my judgment we do not make it clear that this bill does not enhance the claims for sovereignty, then the bill would pass.

Ms. LOHREY. May I respond?

Senator STEVENS. Yes.

Ms. LOHREY. I certainly agree with what you're saying, Senator, at least the last portion of it. I wish you would make it clear that it does not address sovereignty because, as you have seen from these hearings, there is great confusion amongst sincere people who differ on what it means, and difference of opinions by attorneys.

It seems to me that tribal sovereignty is a permanent racially-defined institution and involves reservations and so on. I'm not an attorney, I can't cite legal memorandum.

Senator STEVENS. I understand that. And there are people who are attempting to interpret the language without really going back and looking at the history. Fortunately, or unfortunately, I have looked through that history. So I do hope that you will understand that in my judgment we have to clarify the issue and make certain everyone understands the bill does not deal with sovereignty in the bill itself. And that's my hope that we will do that. I think then we will be in a different situation as far as this controversy is concerned.

Mr. Abel, I do hope that you will give us the text the way you wish it to appear. We will withhold to get your revised version if you wish to do that, otherwise, this version will be printed, if that's agreeable. But you can talk to Mr. Bevinetto and get some idea of time of when it will be printed. But you do have the right to amend it.

Ms. Coleman, I have looked at your attached brief. It's very exhaustive and must ~~have~~ taken a lot of time. I do appreciate that. I have got to defer to Mr. Bevinetto as to whether that full brief will be printed in the record. You may want to discuss that with him. It is 32 pages long and it's questionable as to——

Ms. COLEMAN. I have seen longer and thicker papers submitted for the record.

Senator STEVENS. Well, sometimes the things submitted for the record end up in the committee files and sometimes they end up in the printed record. I'm talking about the printed record now. I just wanted to give you the opportunity to discuss with Mr. Bevinetto as to whether or not it's going to be printed. He will make that decision, not me. He is the person on the committee staff that makes that decision. So I'm just suggesting that you may want to talk with him.

I thank you all very much for your appearance, and I appreciate the fact that you have contributed to this hearing.

Our next panel is Jack Didrickson, Nick Steen, Craig Stark. Are any of them here; Jack Didrickson, Nick Steen, Craig Stark? Are you here, Mr. Stark?

Mr. STARK. Yes.

Senator STEVENS. Thank you.

And following that we will then hear from Mark Jacobs and Steven Kakaruk.

Again, I will remind the audience that under the Senate Rules there is no such thing as testifying from the floor, you must be listed as a witness. We will hear anyone that comes forward and lists themselves as a witness—time permitting, of course.

Mr. Stark.

STATEMENT OF CRAIG STARK

Mr. STARK. Thank you, Senator. For the past year and a half I have been researching information regarding the influence of a multi-national corporation upon the United States of America. I have come across information that I belive may be useful to these proceedings.

This multi-national corporation last year reported its income of $5.4 billion. This year they reported their gross earnings at $8.3 billion. They're a growing development.

And the reason I wanted to bring them to your attention was that they're involved here in Alaska with the AHTNA Corp.

They joint-ventured with AHTNA in catering to, first of all, to pipeline services, and they pretty much have cornered that market right now. And they most recently have become involved with the Alaskan State Railway.

There seems to be some question as to the free enterprise conditions of this operation. As a matter of fact just this morning, the efforts of the State Department of Commerce to have Alaskan seafood and Alsakan agricultural products, samples provided to that company were thwarted. As a matter of fact, they were denied.

The Department of Commerce here has made, to my knowledge, four attempts with the headquartered operation in London to introduce these products, and it just does not seem like a free enterprise operation.

Basically that's all I wanted to say. I would be happy to answer any questions that you may have.

Senator STEVENS. Do you wish your whole statement printed in the record?

Mr. STARK. I do, sir.

Senator STEVENS. We would be pleased to do that. I want to thank you for coming forth. I don't have any questions about it. You have raised some interesting questions that I'm sure the ATHNA people will want to consider.

Mr. STARK. Okay.

Senator STEVENS. I appreciate your taking the time.

Mr. STARK. Thank you.

[The prepared statement of Mr. Stark follows:]

My name is Craig Stark and in researching information for a forth coming book concerning the influences of a specific-foreign multinational corporation and its increasing predominance upon the United States of America, I have come across information that I believe may be useful to these proceedings in obtaining a more clear understanding of the auspices formulating the final implementation of Alaska Native Claims Settlement Act.

I wish to begin by congratulating the AHTNA Regional Corporation on their outstanding and unparalleled record as the only regional corporation to have continually maintained their profitablity since their founding. Undoubtedly, AHTNA's Directors and Management have successfully implemented the objective intent of a native regional corporation.

However, I call upon the Directors of AHTNA to share with their stockholders the true extent of their corporation's involvement with a multi-national conglomerate whose world wide gross sales soared from $4.5 billion in 1984 to $8.3 billion in 1985.

It is my understanding that this London England based company, called Grand Metropolitan (GM) originally entered into their joint venture with ATHNA in 1981 with explicit purpose of acquiring catering contracts from the Alyeska Pipeline Services Company. The deal was initially slated as a 49% to 51% ownership agreement in favor of Grand Metropolitian (GM). AHTNA President, Roy Ewan officially announced the joint venture to stockholders in 1983.

Commonly known as GRANDMET/AHTNA this joint venture, from their offices located at 2525 Gambel here in Anchorage has since acquired the exclusive contracts to provide "life support services" for all thirteen permanent pumping stations along the pipeline.

The total gross revenues generated from these contracts are estimated to total between $5 and $7 million annually. Unfortunately, AHTNA's interest in this venture is recorded to have dropped to 20% and is now suspected to have dwindled to a mere 10%. The arrangements reached between GRANDMET and AHTNA, and the corresponding contracts from the pipeline is the proprietary business of the regional corporation and its shareholders.

However, Grand Metropolitian's situation has now developed a direct effect on the free enterprise system within the State of Alaska. The intent of Grand Metropolitan presents certain and basic conflicts of interests, not only to the Alaska Native Community but to the entire consuming public. Grand Metropolitan's Chairman, Stanley Grinstead reported to his stockholders: "1985 has been a year of consolidation and strategic rationalization . . . . We have continued to develop our hotels and wines and spirits interest international . . . In the planned extention of our U.S. portfolio." My personal concern for GM's growing influence here in Alaska focuses on the multi-national's candid assertations of where their true interests apparently lie. GM currently boasts of their foresight and influence in the United Kingdom which has placed them "in a position to take full advantage of the opportunity the proposed legislation is likely to present." I am worried that such an "opportunity" could be created here in Alaska, hidden through a corporate convolution and then implemented in these proposed changes to the ANCSA. GM is an extremely diversified concern, listing its primary products as: "hotels, catering, foods, brewing, wines and spirits, betting, gaming, sporting goods and tobacco products."

This conglomerate is known to hold North Sea Oil leases and is believed to be a former partner of British Petroleum and Sohio in various drilling operations. Logically, there would be a substantial interest from most energy concerns in the development of native mineral rights. The significance of the Alaskan State Railroad in this task is indespensable to such development.

GRANDMET/AHTNA's recent acquisition of the catering contracts for the State's Railroad only serves to broaden GM's expanding world-wide influence base. If GM is in fact providing the publicly owned Alaskan Railroad with "life support services" of a superior quality, and a lessor price than competitors, then they are rightfully in possession of these contracts. However, GM has failed to file as a foreign corporation with the Alaska Department of Commerce and would appear to have been in violation of Title 10 of the Alaska Statutes for the past five consecutive years.

On 3/26/83 an Alaskan resident who had been instrumental in establishing the company's pipeline operations, was arbitrarily terminated from his management position with GRANDMET/AHTNA.

This matter remains stagnated and unresolved before the State's Human Rights Commission despite the circumstances of this complaint warranting the attention of the court.

Perhaps the most serious infraction of established Alaskan Commercial Policies is GM's recent refusal to consider utilizing Alaskan seafood and agricultural products in their state wide catering operations. Repeated unsuccessful attempts by independent domestic producers to provide GM with product samples prompted an official query from the Alaska Department of Commerce. A representative from the Department contacted the Company's headquarters in London in an attempt to broaden GM's existing marketing policies. The Alaska Department of Commerce was unable to arrange a situation where as GM would accept samples and provide domestic producers with a legitimate and "open " bidding process.

The business of wholesaling food and beverage to GRANDMET Site Services, Inc. (despite the fact that they are not incorporated with the Alaska Department of Commerce) has been secured by ANCO, Inc., who is also owned by a foreign corporation not incorporated as prescribed by Alaskan State Statute. As the exclusive distributor of GM's alcohol products in Alaska, the ODEM Corporation's 14 year old operation is most commonly known as Anchorage Cold Storage. GM's increasing commercial relationships inside the State of Alaska no longer appear to represent a significant interest for the AHTNA Regional Corporation. I believe it would be appropriate for GM and its distributor to comply with existing state statutes which it presently violates.

Furthermore, I believe that there are deeply seeded sociological, political and commercial arrangements which will seek to influence the implementation of this legislation currently being considered. No one can be certain what 1991 will bring for the citizens of Alaska. Through academic research, the factors that will influence the forthcoming changes, may enable us to be better prepared and more fully understand this transition. On behalf of those who do believe in a system of free enterprise, I appeal to the individual shareholders of every regional and village corporation to consider the full scope and potential impact of these amendments. I urge you to hold fast to the center of the original intent of what will ultimately become the future reality of the ANCSA. An independent study could and should be implemented in order to allow everyone the right and the opportunity to ensure that it will in fact be the individual shareholder and the citizens of this State and Nation who become the primary beneficiaries from this legislation and thus limiting the domain of a foreign multi national cartel that apparently ignores Alaska licensing laws and seeks to abolish controls which they interrupt as "out dated and unnecessary" . . . or which may "inhibit trade." In simplest terms I believe that the Native population is not adequately represented in this far reaching issue.

SOURCE: GRAND METROPOLITAN
1985 ANNUAL REVIEW

Grand Metropolitan PLC

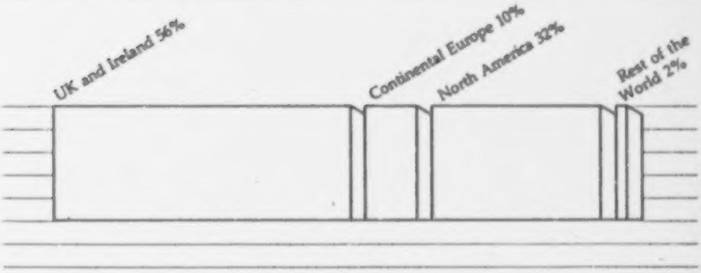
Grand Metropolitan is based in the UK and is the holding company of an international group with annual sales of £5.5 billion, trading in branded consumer services and branded consumer products. It provides employment for about 140,000 people, mainly in the UK and the USA.

The group's asset base includes a property portfolio valued at approximately £2 billion. Many of its operating companies are leaders in their respective market sectors.

The company is committed to maintaining leadership through competitive excellence, to ensuring high product quality and to growth by following a strategy of controlled diversification and strong organic development.

Grand Metropolitan is able to respond positively and quickly to changing consumer needs. Its proven entrepreneurial skills and sound management enable it to take advantage of opportunities for future growth.

Geographical Analysis of Assets



SOURCE:
1984
STANDARD
POORES
INDEX

[illegible] INVESTORS CORP.
[illegible], 43 Rockwood Rd., Stamford, N. Y.
10523
Tel. 914-[illegible]-1750
[illegible] Tunnell
[illegible] R. Cook
[illegible] Jericho, N. Y.
[illegible], N.A.
Employees: 22
[illegible] & comml. loans, originating
[illegible] real estate investment

[illegible]EX CORPORATION
[illegible] Park Rd., Bridgeton, Mo. 63044
Tel. 314-739-6300
[illegible] Exec Officer—Fred Rudolph
[illegible], Mitchell & Co., St. Louis, Mo.
[illegible] Louis County Bank
*Also DIRECTORS
[illegible] chain, sporting goods, micro
[illegible]

J.D. GRAMM, INC.
[illegible] Dr., Hialeah, Fla. 33010
Tel. 305-[illegible]
[illegible] Goldberg, 6731 Crooked Palm
[illegible] Lakes, Fla.
[illegible] N.E. Fern Court, Hallandale,
[illegible] Barlow, 1640 W. Ninth Court,
[illegible] & Cohen, Miami, Fla.
[illegible] Bank
[illegible]—James Farrell
[illegible] Employees: 65
[illegible] OTC
DIRECTORS—Other Directors Are:
William Stetson, Sr.

[illegible]AN-ADELL MFG. CO.
[illegible] W. Wabansia St., Chicago, Ill. 60622
Tel. 312-769-4300
[illegible] & Co., Chicago, Ill.
[illegible] National Bank
[illegible] Firm—Warner, Mann
[illegible] & steel fabrication

GRAND AUTO INC.
[illegible] Dr., Oakland, Cal. 94621
Tel. 415-[illegible]
[illegible] & Chief Exec Officer—Irving Kreutzman
[illegible] M. Brown
[illegible] Chief Fin Officer—John F. Goodsell
[illegible] L. Estes
[illegible] Owensby
[illegible]—Robert Seymour
[illegible] Devel/Facilities)—Albert T. Schneider
[illegible]—R. J. Markotti
[illegible]
[illegible] Hand
[illegible] J. Murphy
[illegible] Roger Thompson
[illegible]—Don Nichols
[illegible]—Fred Seymour
[illegible] & Co., San Francisco, Cal.
[illegible]—Bank of America
[illegible] Firm—Golden, Stefan, Ellenberg & Riedel
[illegible] Employees: 1,600
[illegible] ASE, PAC
[illegible] DIRECTORS—Other Directors Are:
[illegible] Brown
[illegible] Jerry S. Garfinkle
[illegible] & parts, tires, batteries,
[illegible] goods (ret)

GRAND CENTRAL, INC.
(Subs. Fred Meyer, Inc.)
[illegible] Salt Lake City, Utah 84115
[illegible]
[illegible]

PRODUCTS: Drugs, apparel, hardware, housewares, variety, domestics, toys, sport goods, cameras, sound (ret.)
S.I.C. 5311; 5912

GRAND CENTRAL MARKETS
(Div. Hartford Provision Company)
P. O. Box 44[illegible], Stamford, Conn. 06904
Tel. 203-3[illegible]7-9775

- *Pres—Louis Lotstein
- *V-P—Irving Lotstein
- V-P (Sales & Mdsng)—Louis Zarn
- *Treas—Saul Lotstein
- *Secy—Ralph Lotstein
- Compt—Larry Schwinz
- Dir Store Oper & Produce (East)—John McCollom
- Dir Store Oper (West)—Jack Kelly
- Dir Dairy & Frozen Food—Steven Lotstein
- Dir Meats—Shep Goldstein
- Dir Deli—Albert Ruggerio
- Accts—Ernst & Whinney, Stamford, Conn.
- Primary Bank—Union Trust Company
- Primary Law Firm—Wofsey, Rosen, Kweskin & Kuriansky

Employees: 244
*Also DIRECTORS—Other Directors Are:
Jack Lotstein
BUSINESS: Ret. food
S.I.C. 5411

GRAND EXHAUST SYSTEMS INC.
(Subs. Armada Corporation)
5310 W 66th St., Chicago, Ill. 60638
Tel. 312-458-4500

- Oper Mgr & Purch Agt—Darryl Mandryk
- Cont—Stanley Szyper

Sales: $6Mil Employees: 75
PRODUCTS: Automobile mufflers, exhaust systems & accessories
S.I.C. 3714

GRAND FALLS DIVISION
(Abitibi-Price Inc.)
Grand Falls, Nfld. Can.
Tel. 709-292-3230

- Resident Gen Mgr—J. L. Carson, St. John's, Nfld., Can.
- Accts—Price Waterhouse, Montreal, Can.
- Primary Bank—Bank of Montreal

Sales: $194Mil Employees: 1,791
PRODUCTS: Newsprint
S.I.C. 2621

GRAND HAVEN BRASS FOUNDRY
(Div. JSJ Corporation)
230 N. Hopkins St., Grand Haven, Mich. 49417
Tel. 616-842-4100

- Pres—Alvin E. Jacobson, Jr.
- V-P (Foundry)—Hong Liang
- V-P (Mfg)—Roger Eaton
- Accts—Arthur Andersen & Co., Grand Rapids, Mich.
- Primary Bank—Peoples Bank & Trust - West

Sales: $12Mil Employees: 190
PRODUCTS: Brass goods, brass, bronze castings rough & machined
S.I.C. 3362; 3432

GRAND HAVEN STAMPED PRODUCTS CO.
(Div. JSJ Corporation)
1250 S. Beechtree, Grand Haven, Mich. 49417
Tel. 616-842-5500

- Pres—Philip E. Taylor
- V-P (Mfg)—Frank Nagy
- V-P (Sales)—Thomas Jones
- Cont—Joseph Alderink
- Purch Agt—Thomas Archambeau
- Accts—Arthur Andersen & Co., Grand Rapids, Mich.
- Primary Bank—Peoples Bank & Trust Co.
- Primary Law Firm—Warner, Norcross & Judd

Sales: $22Mil Employees: 225
PRODUCTS: Metal stampings & assemblies
S.I.C. 3469

GRAND HOTEL CO.
(Subs. Musser-Mackinac Holding Company)
Mackinac Island, Mich. 49757
Tel. 906-847-3331

- *Pres & Gen Mgr—Robert D. Musser
- V-P—John M. Hulett, III
- *V-P—Thomas R. Wieghard
- *Secy & Treas—Amelia E. Musser
- Accts—Touche Ross & Co., Grand Rapids, Mich.
- Primary Bank—National Bank of Detroit
- Primary Law Firm—Warner, Norcross & Judd

Sales: $11Mil Employees: 430
*Also DIRECTORS—Other Directors Are:
Harold Schumacher
BUSINESS: Seasonal resort hotel
S.I.C. 7011

GRAND LEDGE CLAY PRODUCT CO.
P.O. Box 66, Grand Ledge, [illegible]
Tel. 517-627-2164
*Chrm—Stanley A. [illegible]
*Pres—Wm. K. [illegible]
*V-P—Merrill [illegible]
[illegible]
[illegible] Richard J. Albert
[illegible]
Sales: Over $1Mil [illegible]
*Also DIRECTORS[illegible]
[illegible]

PRODUCTS: Clay drain tile & sewer pipe, chimney flue lining, wall coping and other clay products, distr. aluminum drainage structures
S.I.C. 3259; 3251; 3272; 3295; 3839; 5211

GRAND METROPOLITAN PLC
11-12 Hanover Sq., London, England W1A 1DP
Tel. 01-629-7488

- *Chrm & Chief Exec Officer—Stanley G. Grinstead
- Secy—Dennis John Dickinson
- Accts—Thomson, McLintock & Co., London, England
- Primary Bank—Barclays Bank
- Primary Law Firm—Slaughter & May

Sales: $7.5Bil Employees: 136,000
*Also DIRECTORS—Other Directors Are:

Anthony R. Good	J.M. Harvey James
F. J. Pizzinato	Allen J.G. Sheppard
Walter D. Scott	Anthony J. Tennant
A.H. Alexander Dibbs	J. C. Orr

PRODUCTS: Hotels, catering, holidays, foods, brewing, wines & spirits, betting, games, entertainment, milk, restaurants, pet foods, sporting goods & tobacco products
S.I.C. 7011; 2026; 2111; 2949; 5812; 5813; 7929; 7999

GRAND RAPIDS AUTOMOTIVE SUPPLY CORP.
(Subs. Genuine Parts Company)
3405 Patterson S.E., Grand Rapids, Mich. 49508
Tel. 616-957-3015

- Pres—David Matthews, 431 S. Decor Dr., Irving, Texas 75062
- Group V-P—James E. Allen, Dallas, Texas
- Accts—Ernst & Whinney

Sales: $20Mil Employees: 70
PRODUCTS: Auto replacement parts (whl.)
S.I.C. 5013

GRAND RAPIDS CABINET CO.
(Subs. Engineering & Refrigeration, Inc.)
56 Baldwin Ave., Jersey City, N. J. 07306
Tel. 201-333-4200

- *Pres—R. A. Bradley
- *Exec V-P—C. Edmond
- *V-P (Sales)—A. J. Pacorillo
- *V-P (Engr & Refrig)—Ed Gehn
- *Secy & Treas—F. J. Reimer
- Gen Mgr—Edward J. Bathers
- Accts—McGladrey Hendrickson & Pullen, New York, N. Y.
- Primary Bank—Commercial Trust Company of New Jersey
- Primary Law Firm—Ziff & Ziff

Sales: $2.5Mil Employees: 160
*Also DIRECTORS
PRODUCTS: Soda fountain & luncheonette equipment, restaurant equipment & fixtures, ice cream cabinets
S.I.C. 3585; 2599; 3551

GRAND RAPIDS STEEL & SUPPLY CO.
P. O. Box 1848, Grand Rapids, Mich. 49501
Tel. 616-452-3111

- *Pres & Secy—Lewis V. Chamberlin, Jr.
- *Exec V-P & Treas—Steele A. Taylor
- *V-P—Herbert E. Trapp
- Accts—Ernst & Whinney, Grand Rapids, Mich.
- Primary Bank—Old Kent Bank and Trust Company
- Primary Law Firm—Varnum, Riddering, Wierengo & Christenson

Sales Range: $3—4Mil Employees: 75
*Also DIRECTORS—Other Directors Are:
Margaret R. Trapp
PRODUCTS: Steel service center, distributor of steel plates, sheets, bars, structural steel fabricator
S.I.C. 3441; 5051

GRAND TRUNK CORP.
131 W. Lafayette Blvd., Detroit, Mich. 48226
Tel. 313-962-2260

- *Chrm—J. M. LeClair
- *Pres—John H. Burdakin
- V-P (Fin)—P. E. Tone
- Treas—J. E. Shepherd
- Secy—Kenneth Baird
- Gen Coun—E. C. Oppenheimer
- Accts—Coopers & Lybrand

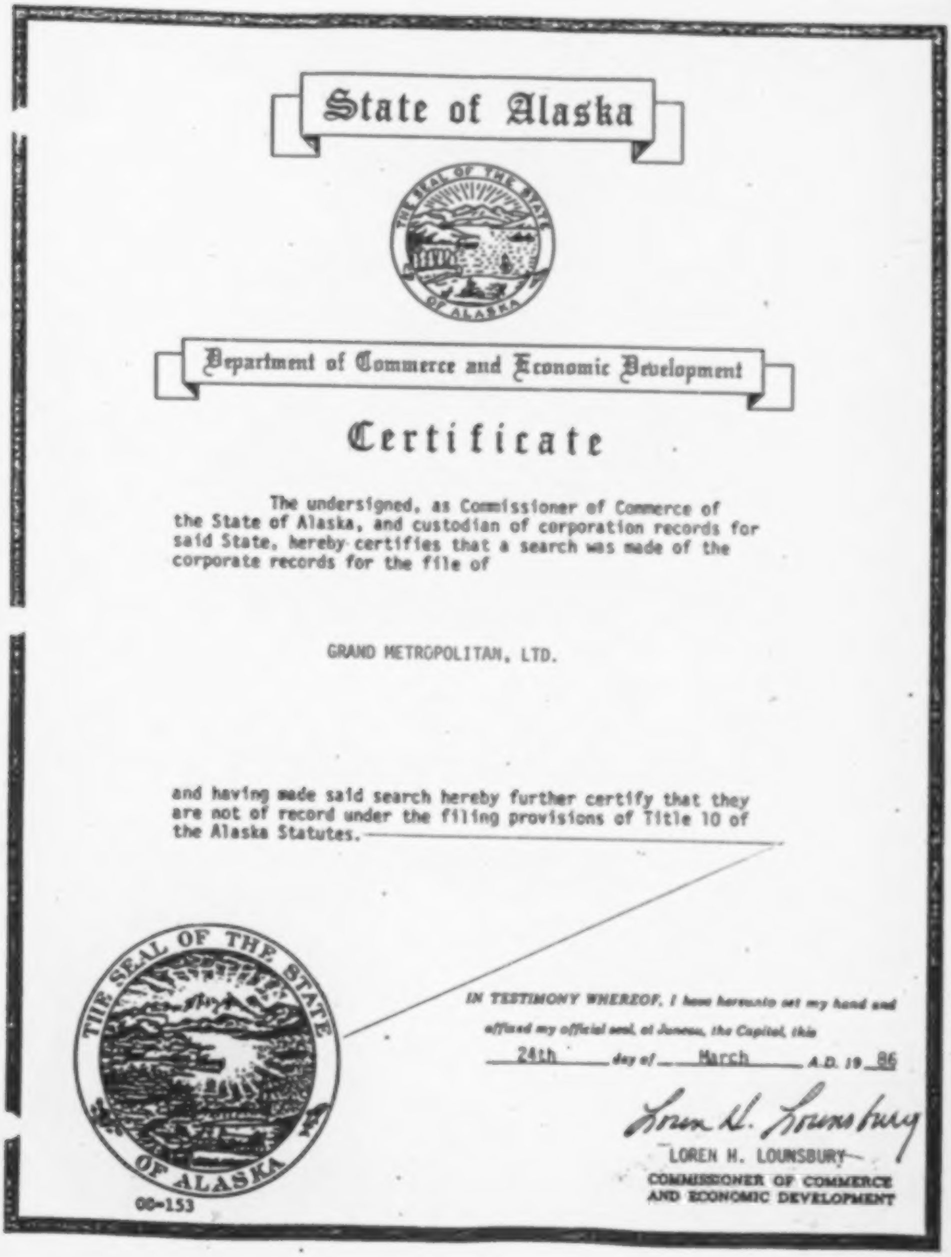
*Also DIRECTORS—Other Directors Are:

R. S. Gillette	J. S. Hinds
V. G. Isaack	F. R. Keyser, Jr.
R. E. Lawless	Y. H. Mason
F. D. Rosebrugh	P. M. Turner

BUSINESS: Holding co. railroads
S.I.C. 6711; 4011

GRAND TRUNK WESTERN RAILROAD CO.
(Subs. Grand Trunk Corp.)
131 W. Lafayette Blvd., Detroit, Mich. 48226
Tel. 313-962-2260
[illegible]

GT
Grand Trunk
the Good Track road



State of Alaska

Department of Commerce and Economic Development

Certificate

The undersigned, as Commissioner of Commerce of the State of Alaska, and custodian of corporation records for said State, hereby certifies that a search was made of the corporate records for the file of

GRAND METROPOLITAN, LTD.

and having made said search hereby further certify that they are not of record under the filing provisions of Title 10 of the Alaska Statutes.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at Juneau, the Capital, this 24th *day of* March *A.D. 19* 86

Loren H. Lounsbury

LOREN H. LOUNSBURY

COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT

00-153

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CORP# 04652 F ALPHA-KEY                                                    ACTION SEARCH

NAME-1 THE ODOM CORPORATION                           STATUS A ACTIVE
NAME-2                                                STATUS-DT  04/18/74
NAME-3                                                STATUTE 10 05
SORT   ODOM CORPORATION                               DATE AMEND
DATE-INC 01/14/1972  ST-DOM DELAWARE                  FILED-AK   04/18/74
# SHRHLD 0003      DURATION       S.I.C. CODES 1-4 5000 5100
REG-OFC-1 240 MAIN ST STE 800                     FOR-AFFIL
REG-OFC-2                                         FIVE-PCT   Y
REG-CITY  JUNEAU                 ZIP 99801            DATE AMEND 07/30/84
REG-AGENT C T CORPORATION SYSTEM                      DATE RESGN
PURPOSE   WHOLESALER/ALCOHOLIC BEVERAGES              DATE AMEND
1 #   1,000,000 CL C SER   PV$     1.00  2 #              0 CL    SER    PV$       .00
3 #           0 CL   SER   PV$      .00  4 #              0 CL    SER    PV$       .00
5 #           0 CL   SER   PV$      .00  6 #              0 CL    SER    PV$       .00
                                                      DATE AMEND
RPT-YR 86  DT 12/20/85  RCT               TAX-YR 87  DT 12/20/85  RCT B00892 244
RPT-YR 84  DT 12/20/83  RCT               TAX-YR 85  DT 12/20/83  RCT 033256 244
RPT-YR 82  DT 01/01/01  RCT NRD           TAX-YR 83  DT 02/02/82  RCT 012215 923
RPT-YR     DT           RCT               TAX-YR     DT           RCT
COMMENT                                    UPDT 03/07/86 TIME 10:20:33 ACT CHANGE
CORP# 04652 F ALPHA-KEY                                                ACTION SEARCH

INC-1
INC-2
INC-3
INC-4
INC-5
INC-6
PRIN-OFC 26 S  HANFORD STREET
PRIN-OFC
PRIN-OFC SEATTLE, WA             ZIP 98134
MAILING  P.O. BOX 24627
MAILING
MAILING  SEATTLE, WA             ZIP 98124
OLD-NAME
OLD-NAME
OLD-NAME
OLD-SORT
CORP# 04652 F              CROSS REFERENCE INFORMATION
CORP NAME   THE ODOM CORPORATION


     LAST NAME                                        FIRST NAME      MI OFF  DIR STK  A   D
ODOM                                                  M               W        X  75.6
WINSLOW                                               R               M  VP    X   5.6
JONES                                                 J               R  SY    X  00.0
JONES                                                 J               R  TR        0.0
BRADDOCK II                                           J               T  PR       00.0
ST LOUIS                                              ROBERT                   X   0.0
ODOM                                                  JOHN            P        X  00.0
                                                                                   0.0
                                                                                  00.0
                                                                                   0.0
                                                                                  00.0
                                                                                   0.0
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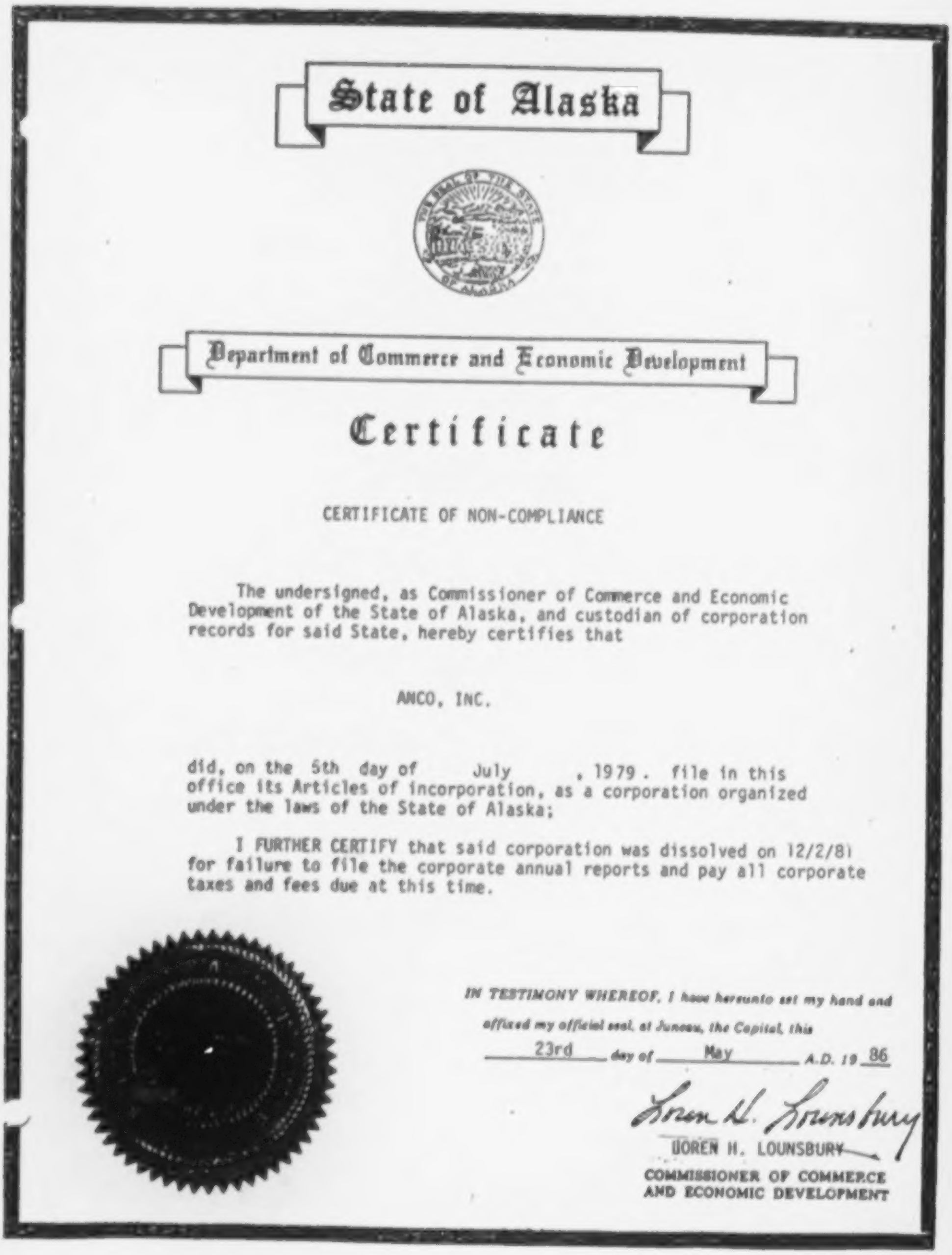


State of Alaska

Department of Commerce and Economic Development

Certificate

CERTIFICATE OF NON-COMPLIANCE

The undersigned, as Commissioner of Commerce and Economic Development of the State of Alaska, and custodian of corporation records for said State, hereby certifies that

ANCO, INC.

did, on the 5th day of July , 1979 . file in this office its Articles of incorporation, as a corporation organized under the laws of the State of Alaska;

I FURTHER CERTIFY that said corporation was dissolved on 12/2/81 for failure to file the corporate annual reports and pay all corporate taxes and fees due at this time.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at Juneau, the Capital, this 23rd *day of* May *A.D. 19*86

Loren H. Lounsbury

LOREN H. LOUNSBURY

COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT

Senator STEVENS. I'm pleased to welcome the son of my great and old friend, the former Dar Petra of the State legislature. Your father's portrait is still on my wall. I'm happy to see you here, Mr. Jacobs.

STATEMENT OF MARK JACOBS, JR., SECOND VICE PRESIDENT, CENTRAL COUNCIL, TLINGET HAIDA INDIANS OF ALASKA

Mr. JACOBS. Thank you, Senator. My name is Mark Jacobs, Jr. I am Second Vice President of the Central Council of Tlinget Haida. I'm here on very short notice as our President could not make it.

As a tribal government, Tlinget and Haida have continuously favored protection of our land and restricting the sale of stock by our shareholders. Also some provisions for enrolling qualified Alaska Natives.

Although some have contended that the pending legislation does not contain enough provisions to recognize tribal and traditional governments, we do not wish that these views should prevent passage.

We do have some questions on the language of qualified transferee entity, referred to as QTEs. My personal view on some legislation to recognize tribal sovereignty is that it is not a subject for legislation. If it was it could be repealed.

Sovereignty is something that we have traditionally possessed. It cannot be taken away by a strong sovereignty.

I know that a sovereign has a right to recognize other sovereigns. This has happened in the case of Red China, as the United States Government refused to recognize them for a good many years.

As far as our own tribal sovereignty is concerned, we have always exercised it, we still exercise our—we still have various other things that do that is a direct result of our own sovereignty. In other words, manifestations of our sovereign rights.

The Tlinget and Haida Indians of Alaska were the first organization to successfully litigate its land claims in the U.S. Court of Claims. Then during the lengthy evaluation proceedings, it was decided that all Alaska Native Claims Settlement Act, that we would join this larger organization. We did not anticipate that Act would create an artificial person in the form of corporations.

The Settlement Act, as interpreted, gave to these regional corporations and village corporations all the monetary distribution and all the land selections. This came as a surprise to the Tlinget and Haidas when they realized that they were left holding the bag, so to speak.

Although the Tlinget and Haidas spent considerable amount of money, the Act was written in such a manner that we could not recover all the monies and the time that was invested. When we tried to recover some of these losses, our regional corporation—from our regional corporation, a section of the Act was quoted which would be in violation, subjecting us to fines and possible jail sentences.

Therefore, we feel that the transfer of some of the corporate lands in southeastern Alaska should be transferred to the Tlinget and Haida organization, the tribal government for southeast Alaska Natives.

Under QTE, we do not wish to be interpreted as not qualified transferee entity. Only tribal government can assure land protection and preserve it for future uses.

Qualified transferee entity, QTE is a term of serious concern to existing federally-recognized tribal governments. The term calls for more creation of other Native organizations which will further fragment Alaska Natives. Thank you.

[The prepared statement of Mr. Jacobs follows:]

PAGE 1

MAY 27, 1986

U.S. SENATE HEARING ON
1991 ANCSA LEGISLATION
ANCHORAGE, AK. FEDERAL COURT BLDG.

UT

THANK YOU FOR THE OPPORTUNITY TO GIVE MY TESTIMONY ON THE PENDING 1991 ANCSA LEGISLATION. MY NAME IS MARK JACOBS, JR, BOX 625 SITKA, AK 99835. I AM SECOND VICE PRESIDENT OF THE CENTRAL COUNCIL OF TLINGET AND HAIDA INDIANS OF ALASKA.

AS A TRIBAL GOVERNMENT ORGANIZATION WE HAVE CONTINOUSLY FAVORED THE PROTECTION OF OUR LAND AND RESTRICTING THE SALE OF STOCKS BY OUR SHAREHOLDERS. ALSO SOME PROVISION FOR ENROLLING QUALIFIED ALASKA NATIVES.

ALTHOUGH SOME HAVE AND ARE CONTENDING THAT THE PENDING LEGISLATION DOES NOT CONTAIN ENOUGH PROVISIONS TO RECOGNIZE THE TRIBAL AND TRADITIONAL GOVERNMENTS. WE DO NOT WISH THAT THESE VIEWS SHOULD PREVENT IT'S PASSAGE. WE DO HAVE SOME QUESTIONS ON THE LANGUAGE OF "QUALIFIED TRANSFEREE ENTITY". (QTE) (MY PERSONAL VIEW ON SOME LEGISLATION TO RECOGNIZE "TRIBAL SOVEREIGNTY" IS THAT IT IS NOT SUBJECT TO LEGISLATION. IF IT WAS IT CAN BE SUBJECT TO REPEAL.)

THE TLINGET AND HAIDA INDIANS WHERE THE FIRST ALASKAN NATIVE ORGANIZATION TO SUCCESSFULLY LITIGATE IT'S LAND ~~LAND~~ CLAIMS IN THE U.S. COURT OF CLAIMS, THEN DURING THE LENGTHY EVALUATION PROCEEDINGS, IT WAS DECIDED TO GO WITH THE ALL ALASKA NATIVE CLAIMS SETTLEMENT ACT. WE DID NOT ANTICIPATE THAT THE ACT WOULD CREATE ARTIFICIAL PERSONS IN THE FORM OF CORPORATIONS

PAGE 2

THE SETTLEMENT AS THE ACT IS INTERPRETED. GAVE TO THESE REGIONAL AND VILLAGE CORPORATIONS ALL THE MONETARY ~~AND LAND~~ DISTRIBUTIONS AND LAND SELECTIONS. THIS CAME AS A SUPPRISE WHEN THE TLINGGT AND HAIDAS REALIZED THEY WERE LEFT HOLDING THE BAG SO TO SPEAK. ALTHOUGH THE TLINGET AND HAIDAS SPENT CONSIDERABLE AMOUNTS OF MONEY, THE ACT WAS WRITTEN IN SUCH A MANNER THAT WE COULD NOT RECOVER ALL MONIES AND TIME INVESTED. WHEN WE TRIED TO RECOVER SOME OF THESE LOSSES FROM OUR REGIONAL CORPORATION, A SECTION OF THE ANCSA WAS QUOTED WHICH WOULD BE A VIOLATION SUBJECTING US TO FINES AND POSSIBLE JAIL SENTENCES. THERE FORE WE FEEL THAT THE TRANSFER OF SOME OF THE CORPORATE LANDS IN SOUTHEASTERN ALASKA SHOULD BE TO TRANSFERRED TO THE TLINGET AND HAIDA ORGANIZATION, TRIBAL GOVERNMENT FOR SOUTHEAST ALASKA NATIVES. UNDER Q.T.E. WE DO NOT WISH TO BE INTERPRETED AS NOT QUALIFIED TRANSFEREE ENTITY. ONLY TRIBAL GOVERNMENTS CAN ASSURE LAND PROTECTION AND PRESERVE FOR FUTURE USES.

QUALIFIED TRANSFEREE ENTITY, QTE IS A TERM OF SERIOUS CONCERN TO EXISTING FEDERALLY RECOGNIZED TRIBAL GOVERNMENT. THE TERM CALLS FOR MORE CREATIONS OF OTHER NATIVE ORGANIZATIONS WHICH WILL FURTHER FRAGMENT THE ALATKA NATIVES.

by

Mark Jacobs Jr

Senator STEVENS. I understand the issue you're raising and we woud be glad to discuss it with you later as further consideration is given to this bill.

I think it is a problem that is going to have to be worked out in your own region, because you're really asking for a conveyance from a regional corporation.

Mr. JACOBS. I came on the spirit of the moment, and I am unsure about the Central Council Committee Rule. I have furnished you with a more formal testimony.

Senator STEVENS. Fine. Thank you very much. We appreciate your taking the trouble. It's a long way to come and I appreciate your coming.

Mr. JACOBS. Thank you.

Senator STEVENS. Now, you are Mr. Kakaruk?

Mr. KAKARUK. Yes, I am.

Senator STEVENS. We would be pleased to hear from you, sir.

STATEMENT OF STEVE KAKARUK

Mr. KAKARUK. Thank you. My name is Steve Kakaruk, a 30-year resident of Alaska, residing at Point Sutton here in Anchorage.

I'm in favor of the amendments proposed. Even though they are not perfect, they're a tool to help rectify a situation. With the aid of the amendments, people will be able to control their own destiny beyond 1991 by opening up stock for sale. The 1991 itself opens up the sale.

It will be like an open-season on Native people. Certain interest groups will take aim, zeroing in on traditional people's land, stock and inheritences.

The intent of land claims was to preserve Native culture. And many groups are saying that the intent is for assimilation of the people.

The amendments leave it up to groups of people to choose whether they want to be assimilated or not.

We don't see no redraft of the 1971 Land Claims Settlement Act in its entirety. However, the 1991 amendment is an attempt to develop a vehicle in which the 44—42 or 44 million acres of land may remain in Native people's hands. Thank you.

Senator STEVENS. Thank you. thank you for taking the trouble to come here. We appreciate having your statement. Thank you very much.

Our next witness is Gary Harrison, and then Evelyn Hash, and then Fred B. Morgan. Would you come forward, please.

After this group of three, I'll call forward Charlie Kararuk, June Degnan and T.P. Burrell.

First we will hear from Mr. Harrison, Ms. Hash and Mr. Morgan.

STATEMENT OF GARY HARRISON, PRESIDENT, CHICKALOON MOOSE CREEK NATIVE ASSOCIATION, INC., AND TREASURER OF CHICKALOON VILLAGE

Mr. HARRISON. My name is Gary Harrison. I'm the President of Chickaloon Moose Creek Native Association, Incorporated, and Treasurer of Chickaloon Village.

We, the people of Chickaloon, have had many different oversights. Some of the problems are related to the implementation of Alaska Native Claims Settlement Act.

When the land was selected, those that provided the land and selected land overlooked Section 4 of the Alaska Statehood Act in Article 12, Section 12 of the Alaska Statehood Act State Constitution.

Because of this, the State of Alaska claims most of the land of Lacore Township. Therefore, we have the majestic mountains, which is appealing to the eye but most hard to live on. While the State of Alaska and the regions have the fruited plains. These majestic mountains have potential for mineral development, which rights have been given to the regional corporation.

In essence, we have little or no claims to our lands. Because of this, we are in deficiency areas. We have been crowded into an area of deficiency selection and are being forced to give up two acres of land for one acre of land, when it should have been the other way around. If someone wants us out of the area, they should give up two for one.

Most regional corporations say they work hand-in-hand with their village corporations. At Chickaloon we have a tyrannical regional corporation that exploits our natural resources and tells us we have to like it.

They have plans to poison our air, our land and water with a coal-fired powerplant. They use stockholders' money to run one-sided election campaigns against them, and all this supplied by the State of Alaska, to perpetuate themselves in office and to continue their plunder so a small handful of them may reap the benefits of Alaska Native Claims Settlement Act while the rest of us and our families are left impoverished and embittered.

Most regional corporations have a leverage buy-out plan and so do several village corporations. Most are concerted efforts spearheaded by Alaska Federation of Natives, Inc.

There are several ways of doing this, from changing the State corporation law so employees and board members may borrow our—or my money to buy out our—or my stock, or some old tactics like print more stocks and dilute the original stocks and some corporations use newer methods. All this is a good indication to stockholders that they have something worth keeping.

Alaska Native Claims Settlement Act states it is not a jurisdiction Act, yet the State and the regions seem to think so. They always try to assume our tribal jurisdiction.

We have been told we own the lands, yet we are told we have to pay rental in the form of taxes or the land will be taken away from us. To me, this is an old-time double-talking, forked-tongues speech that has been given throughout Native history on the North American Continent.

We have been confronted by blind people that say look at what we have given you. But if you look at it in the true light you can see that it has been taken from us.

We're allowed to retain a very small fraction of what was once all ours. And the State of Alaska has already published plans for development on lands which is supposed to be ours. Two months later the borough publishes their plans, without any input from the Alaska Native landowners.

The State government under which we are subjugated forces us to plunder the land as they do. Every watershed that civilization has touched in our area has been polluted. With the knowledge and technology available today, there is no reason for this. I hope that these and other oversights can be rectified so that the United States can be looked up to throughout the world on the settlement of our affairs. Thank you. That was from me. Also, the President of our Tribe has sent a short one also.

Senator STEVENS. Thank you very much.

Mr. HARRISON. Also in dealing with Indian——

Senator STEVENS. Thank you very much.

Mr. HARRISON [continuing]. In dealing with Indian legislation——

Senator STEVENS. Sir. Sir.

Mr. HARRISON [continuing]. The passage of ANCSA of 1971——

Senator STEVENS. Sir.

Mr. HARRISON [continuing]. Was a monumental decision for Alaska Natives——

Senator STEVENS. Mr. Harrison. Sir, your time has expired. We will print his statement in the record. Thank you very much.

Mr. HARRISON. I don't have it ready to be printed, but I also wanted to make note that you have treated the Native people very rude in this hearing. Thank you.

Senator STEVENS. Well, I understand that, and I understand your background. We're trying to hear everyone here today, and in order to do that we can give no one more than three minutes. The staff has been here now since nine o'clock, or twenty-five minutes of. We will continue the hearing. Ms. Hash, please.

STATEMENT OF EVELYN HASH

Ms. HASH. My name is Evelyn Hash. I wanted to point out some things—what I want to know first is, is this the only person on the committee—are you the only person hearing me?

Senator STEVENS. Well, I'm the only person here today, but this is going into the record and it will be reviewed by all of the people on the committee, and then there will be a hearing in Washington as a final hearing, and then it will be considered by the committee and the bill that's before us will be considered then. There are representatives here of other Senators, but I am the only Senator here right now, yes.

Ms. HASH. OK. What I wanted to say here is that all the Land Claims Settlement Act has done so far is to open us up for exploitation by the major corporations—world corporations—I forgot what you call them.

But that in all of our areas, in all of our employment, pipelines, any kind of work, any kinds of contracts that we go out for, I notice that each one of the regional corporations are going after the exact same contract; like a bus contract, or pipeline maintenance contract. We're beating with each other on all of these things.

We're investing all of our money but little we did—what little we did get, into the same areas; everyone is bidding on the same thing. I don't like that.

We're open to all these carpetbaggers and thieves that are stealing from us.

And the worst part about it is that this young man [indicating to child] who is four years old, although he is enrolled in the Yupiit community, Arctic Slope, because I wanted to make sure my children were enrolled—Land Claims didn't do that, didn't provide that option for me and my children, I have six children. So in order to make sure that they are enrolled, like I say, like, the Yupiit in the Arctic Slope where Utiono was born, White Hope, that they offer an opportunity to be enrolled and that all of our children should be enrolled.

And I have been fighting—not fighting, I have been going out and talking to people everywhere I go, telling them that ANCSA is not a jurisdictional Act and that these regional corporations have been taking our money and investing it for us while we're dying. We have a right to have basic human—things for basic human life, shelter, food, and we're not, we're being denied these things now.

The newspapers tell us that we're the richest landowners in the world. And we don't have access to the banks, we don't have access to the financing. Some of us have some real good ideas for energy-efficient homes and businesses and using our natural resources, such as hydroelectric and things like that, and our own people are being denied. We have a quick knowledge of our own land and our waters, our oceans, and we're not able to go forward with these things.

I mean the State of Alaska, they're making plans for our lands, for our water, for our fish, for all of our resources, along with the regional corporations. And then the boroughs are just backing them up.

Our people are being arrested, our people are bing jailed all the time. I mean my own kids have now become a victim of this whole thing, this whole Land Claims deal that has built us to be millionaires to everyone else. And all we want to do is eat and sleep and have a place to live and just like everyone else. Thank you.

Senator **Stevens**. Thank you. I understand what you're saying to a certain extent. But I would just make a comment to you. Just before the Land Claims bill was considered by Congress, I held some hearings on the settlement that had been made with some Indians in the Lower 48. They had received a judgment for the taking of lands that had occurred when the Federal Government took their land. They were paid in cash. The people that were there at the time were distributed that money on a per capital basis in cash. Everybody in the tribe got cash. It was just about 14 years later that the next generation came in and said they had a claim against the United States; that the United States had turned the money over to people that couldn't manage the cash. They said they knew better and, therefore, the United States owed the next generation for the last generations's having wasted their money. Now, that's what led to regional corporations.

Ms. **Hash**. We'll see, what they're doing now is selling off our resources, our fish, our timber, our gas, oil. I mean everyone knows that the oil companies are stealing that oil from the Arctic Slope. It's still all of ours. The Land Claims never settled any of that and now you're opening it up again. This time, make sure that our desires, our wants and our rights to feed our children and our next generation to come. This land is ours for as far as you can see, this whole Alaska.

Senator **Stevens**. Thank you very much.

The next witness is Mr. Morgan. After we hear from Mr. Morgan we will hear from Mr. Kairaiuak.

STATEMENT OF FRED B. MORGAN

Mr. **Morgan**. I'm Fred B. Morgan, a 19-year resident of Alaska and multi-languaged. And my interest here is as an Alaskan and one who is all the time interested in land issues and what's historically been known as the man-land ratio and the like. I think there's certain interest in seeing that justice is done.

In my testimony, I have about four references I would like to mention in passing. I'm sorry that I don't have the name of this Canadian judge, but this fellow was an import from Canada, and I think the name of his report was Village Alaska. He was asked to come to Alaska to do some research, and he did, and came up with this volume.

Senator **Stevens**. It's Justice Berger.

Mr. **Morgan**. Thank you. So I want to put that volume in as reference. The second reference is more historical in our country. I may have the wrong case even, but you will probably recognize it if I don't. There's two cases involved really. One of them is Marbury versus Madison. The gist of which as I recall says that the U.S. Government has assumed jurisdiction from the European government, and, therefore, in essence, Congress is legal in settling land claims in similar issues.

There's another case and I have forgotten the name of it, it came up in New Jersey. It might be the same case. They wanted to claim they had jurisdiction over Georgia service—because of some dispute over their university, but the Supreme Court said, in essence, what I just said. Those two cases could be referred to.

The third thing I would like to suggest is Hinie Berchurof who I understand has now become president of Israel since he lectured here in Anchorage, but is somewhat conversant with land matters of the East and the Middle East. And when he was over here and I talked to him, I asked him—started asking him a certain question on land in Israel and he said well—I got halfway through the question and he said I think I know the question, here's the answer.

So I'm wondering even if the Congress had to pay him a certain fee, because his civilian title now is Solicitor and Investment Counselor, and he lives, of course, in Israel. I can give you his address. From his perspective, he might be able to bring a fresh viewpoint on this matter that you're addressing, because he has seen similar issues and so on.

Then the fourth reference I'd like to make is—and I'm not really even acquainted with who it is, but to Canadian equivalent—if such there be—of the American Federation of Natives, and the United Tribes of Alaska and the Alaskan Village Coalition, if these people could be contacted and given their—asked for their viewpoint and their input on the issue of, say, tribal sovereignty on whatever they follow on their own land and apply it here and the

Congress consider it, that might be worthwhile as some input outside of Alaska.

Senator STEVENS. Yes. Thank you very much. We have held workshops in several of the village areas and we are going to continue to do that.

Mr. MORGAN. That was in Alaska?

Senator STEVENS. Yes, sir.

Mr. MORGAN. And did Canadian Natives come and——

Senator STEVENS. No, I don't think so. Their system of government is different, Mr. Morgan.

Mr. MORGAN. That's true.

Senator STEVENS. And I don't think that they have the same concepts of——

Mr. MORGAN. It may be. I was just thinking——

Senator STEVENS. They have a similar proposal before the Canadian Provincial Government for recognition of the right to occupy lands in their Northwest Territories.

I'm going to have to ask that you submit the balance of your statement to us.

Mr. MORGAN. I'm substantially finished, except I would like to add a footnote. For many centuries back we have been concerned about the land-man ratio—this I think the issue of sovereignty is that the world is slowing down to the local level.

And so in the new sheet that Senator Murkowski handed out where he talked about the possibility of the issue of tribal sovereignty being raised and suggested it should be addressed maybe by the Senate and the Congress, I would have to agree with that.

Senator STEVENS. Thank you very much. We appreciate that.

The next witness is Mr. Charlie Kairaiuak, and after that Ms. June Degnan. June, if you would come forward, please.

STATEMENT OF CHARLIE KAIRAIUAK, CHAIRMAN, UNITED TRIBES OF ALASKA

Mr. KAIRAIUAK. My name is Charlie Kairaiuak. I am the Chairman of the United Tribes of Alaska.

Senator STEVENS. Would you spell that last name, please?

Mr. KAIRAIUAK. Kairaiuak.

Senator STEVENS. Thank you.

Mr. KAIRAIUAK. First of all, I'd like to clarify what UTA is. At th present time they're only a fiscal reform. They're an unorganized tribal organization, but charter approved by 160 tribal governments, and, therefore, in essence, makes it the only designated representative of tribal governments in Alaska.

At this present time I would like to state that UTA does not support the 1991 ANCSA amendments, including Resolution 35, because of several things. First, the amendments to ANCSA, in our opinion, would be a form of acceptance of a law that did not allow maximum participation by the tribal governments and tribal members. And the way we interpret that is that it deals with the individual tribal member and individual tribe's rights and proposes to extinguish those rights.

Secondly, the tribal land title is supposed to be transferred to the State of Alaska, and; third, the Land Claims proposes to reclassify the tribal members to shareholders.

And as far as I know, the federal governments has always recognized the Native people, and without their consent or voting on these issues, the Land Claims was passed and without their specific knowledge of the impacts of the Land Claims.

The Land Claims is an ambiguous Act, and the people today are using ANCSA's ambiguous sections to take primarily the title away from tribal members and placing it into non-tribal entities; i.e., the State of Alaska.

In order to correct—properly correct the Land Claims, UTA feels that it has to be worked with the tribal governments by government-to-government relations with the United States and not through the state chartered corporations.

Before I go on, I'd like to make a correction on some things that were stated. Some people have stated that Indians are a racial institution. They're not a racial institution, they're a political community.

Because of that, the UTA would like to see the U.S. Congress and the United States of America to recognize the Alaskan Natives the way they reocgnize the Lower 48 Indians and give them the same rights and opportunities that were granted to the Lower 48 Indians.

To date, many infringements of tribal member rights have been inflicted upon the Natives in Alaska. First is the creation of State.

We feel that in the signature of the Treaty Assistance in 1867, the United States Government and Russia recognized the sovereignty of the country of Alaska, and this infringes on the rest of the tribal governments in Alaska to maintain the sovereignty.

Secondly, Section 4 of the Statehood Act was created, which in essence was supposed to have guaranteed the protection of those Native rights and claims. And the Land Claims violates Section 4 of the Statehood Act.

Thirdly, the creation of municipalities and corporations violates the rights of Natives to have self-determination and self-government, because these entities have used the Land Claims to force people to make decisions on their rights and also their land titles.

All we're asking from Congress and this committee is, first of all, to try to get as much input from the villages as possible, because it is their rights and their land title that is being affected, and to allow tribal members and tribes in Alaska to vote on ANCSA, to vote to neither accept in part or in whole. And only then should Congress seek amendments to ANCSA, if the Native people in Alaska accept—vote to accept it.

And secondly, that UTA requests the U.S. Congress to place more time on Federal Land Planning Act for 10 years until these issues have been resolved that we bring forth. Thank you.

Senator **Stevens**. Thank you very much. We appreciate your coming.

We are going to try to hold more hearings. It depends on the time that Congress will be out. We will keep you posted on those.

Mr. **Kairaiuak**. Can I add just one thing, Mr. Chairman?

Senator **Stevens**. Yes.

Mr. **Kairaiuak**. I think for a matter of record, I have been to several areas in the State and there is a strong interest and concern on the input regarding the Land Claims Act from the villages. So that's why I am pressing that more hearings be scheduled out in the rural areas.

Senator **Stevens**. We will try our best. Thank you. There's a limit to the amount of time we can be away from Washington. We appreciate that.

We will turn to Ms. Degnan, and then after that, J.T. Burrell. Mr. Burrell, if you would come forward.

Go ahead Ms. Degnan.

STATEMENT OF JUNE I. DEGNAN

Ms. **Degnan**. My name is June Degnan. I'm a Yupik Eskimo from Northwest Alaska. I'm a first-generation formally educated. My profession is as a land manager.

I understand the Claims Act from its spirit and also from the letter from the law, and I work in a corporation.

I'm coming to you as a stockholder and a mother; a mother who has a son in the U.S. Navy, and also a daughter, who is following after me to become a land manager.

I'd like to recap the Claims Act as I perceive it and how it impacts on the Norton Sound.

There is no doubt as to the ownership to the land in Northwest Alaska. We, as Alaskan Natives, are the owners. And Congress recognized that ownership in ANCSA, trading a partial land settlement and money for claim to the entire State.

We have occupied this State of Alaska, as did our ancestors. It is our birth-right. We hunt and fish on our lands to sustain our life. It is our home and we are a part of it. And the land ownership must be secured.

ANCSA has not changed our status of hunters and fishermen, but it has jeopardized the ownership of that land to date.

Let me remind you, Bering Straits is in Chapter 11 in bankruptcy. I'm a member of that corporation. We do not know what the outcome of that exercise will be, but we know our peers as Yupits and Inupaigs are not in the courts. Who will speak for us? Who will secure our land?

ANCSA was passed and amended, but not the point where it will secure our homeland. We need to protect our land.

The coastal plans and the waters and the clean air are a way of life. It is a subsistence-based economy. We are land rich and we are cash poor. Our poverty is massive. Our alcoholism rate high, and our life expectancy is questionable.

We live in a rural ghetto like the bottom of poverty, but we own the land. We have a collective use and ownership of that land, and we perceive the world in terms of ours as opposed to mine.

In that life we will continue. Therefore, Congress must create the vehicle on which we can continue to own that land collectively, just as we have for centuries.

In North Alaska we are used to a tribal form of government. As land-owners, we must be also the managers of the resources and not just the land-owners, but we must manage those resources, too.

For us to become economically secure in a cash-flow society, we must develop our minerals and resources. I believe we can maintain a balance for economic stability and still protect our identity and culture. It will be done only if we maintain that ownership of the land.

Some of our land needs to be in land banks to protect the nation and to preserve it in our subsistence way of life.

We must be the masters of our destiny. We are culturally diverse and yet we are proud American citizens.

Alaska is a land of opportunity, and ANCSA paved the way for legal opportunity for lawyers to ransack our future with their jargon while we wallow in poverty at the bottom of society.

But I see a bright future if Congress can move to secure our land and recognize the village is a collective conscience, embodied so eloquently in the Village Journey, the testimony of the people compiled by Thomas Berger in the Report to the Alaska Native Review Commission.

Alaska Natives make up 13 percent of the State's population, and in the Alaska State government we are a mere backwater issue.

I state we are a part of the world and want to live according to the laws of God and man. Please believe, and secure our homeland. But the world wants our resources and I say they won't pay for them.

We must feed our children, we must educate them and we must government ourselves.

The Alaska system and the Alaska government shunts us, they discriminate us, and they curse us. To them we are the Fourth World poor. They are disrespectful to us and we feel it daily. We must change that, too, together. For it is said in the scriptures: he who troubleth his household shall inherit the wind. I pledge to you that we will work together to secure our home. It's been a lifetime. We need to protect our people.

The corporations were a tool, but the people have spoken and we need to work together.

I have also written something for the record. I will not read it to you, but I will hand it to Mr. Stevens.

I am also a writer of poet, and it is a caption of what I spoke to you on. I plead with you that we want that work together because this is our home. Thank you.

[The prepared statement of Ms. Degnan follows:]

Alaska Native Claims Reaction: 1986.

There is no doubt as to the ownership of the land in NorthWest Alaska, We the Alaska Natives are the owners and Congress recognized that ownership in ANCSA, trading a partial land settlement and money for our claim to the entire State of Alaska. We have occupied the lands of the State as did our Ancestors, it is our birthright. We hunt and fish on our land to sustain our life, it is our home, we are part of it and the ownership to the land must be secured. ANCSA has not changed our status of hunter and fisherman, but it has jeapordized the ownership of the land today. Let me remind you, the Bering Straits Native Corporation is presently in Chapter 11, in Federal Bankruptcy Court. We do not know what the outcome of that status will be, but we know the Courts and the entire system does not contain any members of our peers, Yupik or Inupaiq, therefore who will speak for us and secure our land ? We must retain our land ownership.

ANCSA was past in 1971 and also amended, but not to the point where it secures our homeland. We need protection to retain the land, coastal plains, water and clean air. Our way of life is a subsistence-based economy, we are land rich and cash poor. Our poverty is massive, our alcholism rate high and our life expectancy questionable. We live in a rural ghetto at the bottom of poverty, but we own the land today and we must continue that ownership for all time. We are accustomed to a collective use and ownership of our property. We precieve the world in the terms of "our" as opposed to "mine", in that light we will continue, therefore Congress must create a vehicle in which we can remain within our homeland, secure and forever. We must govern ourselves collectively, just as we have for centuries, in NorthWest Alaska, we are products of a tribal form of government. As landowners we must also be the land and resource managers, we historically have proven to be environmentally sound, we understand Nature and are a part of it. For us to become economically secure in a cash flow society, we must develop our mineral and resource rich land. I believe that we can maintain a balance for economic development and still protect our identity/culture, that can be done if we maintain the ownership to our land. Some of our land needs to be land banked to protect it from taxation and to preserve our subsistence lifestyle from outside intruders and the State Government that discriminates against us insidiously. We must be the masters of our destiny and be treated respectfully as culturally diverse proud American citizens.

Alaska Native Claims Reaction: 1986.
pp. 2

Alaska is a land of opportunity and ANCSA has paved the way for legal opportunities, the lawyers to ransack our future with their jargon as we wallow in poverty at the bottom of society.

I see a bright future if Congress can move to secure our land and recognize the villages collective conscious embodied so eloquently within the "Village Journey",the testimony of the people compiled by Thomas Berger, in the Report of the Alaska Native Review Commission.

Alaska Natives makeup 13 % of this state's population and within the large urban sprawl and the Alaska State Governmnet we are a mere "back-water issue". I state we are part of the world and we want to live according to the laws of God and man, peacefully and secure within our homeland. If the world wants our resources, they will pay for them, for we must feed our children, educate them and govern ourselves. The Alaska Court system and Government shunts us, discriminates amd oppresses us, to them we the 4 th world poor, they are disrespectful to us and we feel it daily, we must change that too. For it is said in the scriptures,"He who troubleth his household shall inherit the wind". We must remain free and secure within our homeland and govern ourselves.

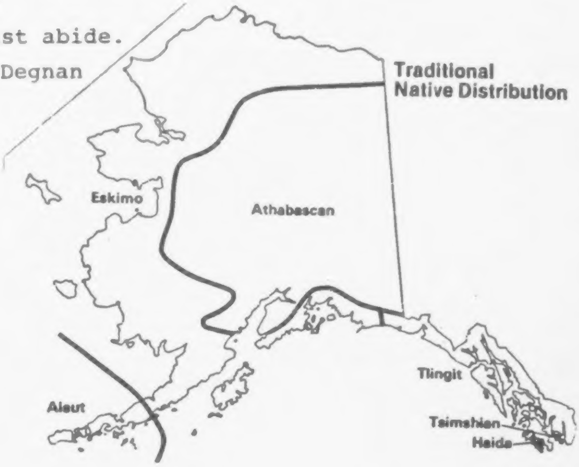
June I. Degnan
Box 33
Unalakleet, Alaska 99684
Bering Straits Stockholder

Mother of:
A son in the U.S. Navy, serving in the MiddleEast.
A daughter in college, studing education and natural resources development.
All descendants of Frank A. Degnan, the first Yupik elected to the Territorial Legislature of Alaska in the 1950's. Like our father and grandfather, we love our country and support it totally.

Alaska Native Claims Reaction

Thirteen per cent and watered down-
they roam the streets and people frown.
You've ripped them from their land secure-
their eyes reflect the pain and fear.
These people once were proud and free-
their use of land was spiritually,
to hunt and fish infrequently,
In essence was their liberty.
Their time was not a numbered clock,
that kills the soul-instills the shock,
but was the rising of the moon,
o'er lovely mountains high, in June.
You've forced them to accept the ways
of domination and its craze
that shaped their dreams into this keeping
the corporate type- like sheep they're bleating.
They're not accustomed to the chase
so far from nature and their base.
They want the freedom and their land
their future now, they must command.
So give them back their right of way,
you keep the cities, your decay-
it is the message they convey.
This Nation torn will keep its pride,
whose hopes for Peace you cannot hide,
It's liberty identified,
In land secure, they must abide.

12-13-85 June I. Degnan



Senator **Stevens**. Thank you very much, June. We appreciate your testimony.

After we hear Ms. T.P. Burrell, we will hear from Vernita Zilys.

STATEMENT OF T.P. BURRELL

Ms. Burrell. Thank you, Senator. I would just appreciate highlighting.

I'm a 27-year resident, and my heart is just absolutely broken to hear what all the problems are here today. I hope that I can talk to some of the people in this room also.

I would like them, and you, sir, to look in particular to Mr. Bondurant's written testimony which was out on the table. I consider a lot of what he says to be the feeling of many of the Alaskan I know.

My own feeling is that the Land Claim has been detrimental to the entire State of Alaska. The 49 acres has created a patch-quilt of little ficedums or small kingdoms, and are mixed in with vast governmental holdings, large State land and an insignificant amount of fee-simple land.

The future and the health of the economy depends on private enterprise to create a tax base and to add to the gross national product.

To continue this special treatment of a small number of people at the expense of the majority of Alaskan residents is unfair.

It is wrong to let Native lands to stand in a tax-free status after the 20-year adjustment period. I'm heavy in my heart to hear that the adjustment—that we're running out of time and that the adjustment, evidently, hasn't come. But I feel that the Natives are intelligent, adaptive, and a good people, and I think that they will be able to make the adjustment that the 20 years has given them.

The Natives sit on acreage on so-called Native corporations that are tax free. This is very detrimental to, say, someone that has invested in land, bought land, is counting on this land to pay for this medical or his old-age problems or both. He finds that his land is now still isolated. It's an isolation of land which normally would have developed in the marketplace at a reasonable rate of development, with growth, with utilities, with all of these things. The development of the land, so-called non-Native, if you want to put it that way, is sitting there and totally blocked. The Native lands stand and sit untouched.

The other person pays taxes. He finds them when it comes time, if at all, that he can market his land for his retirement, whatever, he finds that suddenly he's subject to a giant dumping of land, or he finds that he is suddenly sitting on what used to be an extremely beautiful area that now the area all around him has been clearcut right down to the water front. The aesthetics is not there, and it still doesn't have utilities, and it still doesn't have the people that you need in order to put Alaska on a sound economic basis.

I feel that the problem of having to buy back State parkland, Gatunak State Park, should never have happened, it should not have been. I believe that all of Alaskans—and I'm sorry for those who say that they don't want to be Alaskans, they want to be something else. I say that everybody must get in the same boat and row at the same time and put this State on the basis that everybody will be treated in a fair, reasonable manner.

Despite or contrary to Jane Angvik, if the Native undeveloped land is not taxed, then other Alaskan land should have their undeveloped land not taxed.

Senator STEVENS. You'll have to summarize now.

Ms. BURRELL. I will. Thank you. It is also other people's health and retirement land. A wider tax base is a fair taxation for all. We cannot survive if we talk about sovereignty being recognized and tax free.

I would like to also in summary point out Dick Randolph's surveys and testimony. And I also agree very much with Ann Lohrie. Thank you.

Senator STEVENS. Thank you very much. I just wish you had studied the amount of the land in the State that is undivided that's taxed now. There isn't any undivided land that's taxed now. I think you should understand that. Out in the area that we're talking about, there is no government that's taxing land whether it belongs to Natives or non-Natives. We're talking about a fear of taxation more than a reality of taking land that's currently being taxed and making it untaxable.

Ms. BURRELL. Oh, I'm paying taxes on land that is surrounded by Native land.

Senator STEVENS. Where is that?

Ms. BURRELL. Well, I hate to pinpoint the area, but it is Soldobien.

Senator STEVENS. Are you within the city?

Ms. BURRELL. No, I'm in the borough.

Senator STEVENS. Then it must be land that is subject to development or has some kind of development on it.

Ms. BURRELL. I don't have any development on it, but I am paying taxes on it.

Senator STEVENS. Well, I'd like to see that. As a matter of fact, the difference is that in these areas we're talking about millions of acres of land. We're talking about basically the rural Alaska land. We discussed with the Mayor here this morning about some definite understanding with the municipality so that there's a constant standard provided the Native and non-Native lands alike within organized areas.

Ms. BURRELL. Boroughs?

Senator STEVENS. It could be cities or boroughs.

Ms. BURRELL. Fine. Thank you.

Senator STEVENS. There's no intent to remove lands from taxaton. Many of them have not been subject to taxation.

Ms. BURRELL. Is Lake Clark not taxed?

Senator STEVENS. Lake Clark. Not as far as we know.

Ms. BURRELL. However, do the individual owners pay to a borough?

Senator STEVENS. Not as far as we know—not unless it's subdivided.

Ms. BURRELL. It's subdivided.

Senator STEVENS. Well, these lands we're talking about are not subdivided.

Ms. BURRELL. But it's still Native-owned.

Senator **Stevens**. Where it's subdivided by this bill it would be subject to taxation whether it's Native-owned or non-Native-owned.

Ms. **Burrell**. I got that. However, we need a basis for all the land to pay for all the Native expenses.

Senator **Stevens**. The difference is, as Ms. Angvik stated, it is 95 percent of all the land in the State that's in tribal ownership. And there is a definite feeling in Congress that that land is too much of a target to be the subject, of statewide taxation.

There's never been any statewide property taxed, but that is the fear that's been expressed. We're basically talking about taxation in areas where there has never been any taxation. Now the lands that are within boroughs, if they meet, as the Mayor said, the requirements for entering on the tax roll, they would be entered on the tax roll.

Ms. **Burrell**. Senator, I have additional information that I will type up as testimony. Thank you.[1]

Senator **Stevens**. Thank you very much.

Now, after we hear from Ms. Zilys, we will hear from Mr. Giegirich.

Please testify, Ms. Zilys.

STATEMENT OF VERNITA ZILYS

Ms. **Zilys**. Good afternoon, Senator Stevens. My name is Vernita Zilys, and I speak today as a Yup'ik, and the mother of two children, one a shareholder or Cook Inlet Region, and one not.

I speak also as a concerned Alaskan citizen, one of your constituents.

Senator bill 2061 goes a long way towards resolving the problems created rather than settled by ANCSA.

I'm glad that you have publicly acknowledged that ANCSA and the amendments to Senate bill 2061 should not impinge upon the rights of Alaska Native tribal groups.

Tribal agreement and sovereignty issues must be settled eventually, but not at the price of the 1991 legislation.

For the record, I own 100 shares in the Cook Inlet Region, Inc., stock. I was born in Unalakleet, however. And if ANCSA had been implemented acurately, I would be a shareholder of the Bering Straits Native Corp. instead.

Today I find this turn of events to be bitter-sweet indeed, because although I received regular rather healthy dividends from Cook Inlet Region, I cannot have a voice in my village's ANCSA corporation, nor in my home regional ANCSA corporation.

In 1986, My Cook Inlet Region, Inc., dividend equaled $1,032 or $258 per quarter. But I cannot receive any of the land that I grew up on.

I used to believe ANCSA was the best settlement ever received by any Natives, because I did not read the entire Act. Now I wonder. Because I see the president of Cook Inlet Region receiving $120 thousand per year plus perc, while I receive $258 every three months. And as a shareholder at large, no land, no village corporation shares.

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[1] Not received.

Senator, I have just returned from Unalakleet, my home village, to which I traveled last week on grevious business. My oldest sister's ten-year old son was out hunting and was shot acidentally. Did the village turn its back on our old ways? Did my family forsake hunting because of Phillip's death? No, anymore than my parents did 25 years ago when my mother lost her eldest son the same way.

My people are inextricably tied to our land and our ways. ANCSA has had inextricable effect on separating us from both land and tradition.

I sincerely hope that as you condider this legislation, you and the rest of the Congressmen will think of my daughter, shareholder of nothing, any my nephew Phillip, who died on the land, and me, separated by ANCSA from my roots.

I see the people moving towards unity, but we need time. Unity cannot be legislated, it must be gained through negotiation and communication between everyone who will be affected. And by that I mean those who wish to remain corporated shareholders and those who wish to memain their tribal identity, and the rest of the citizenry of Alaska.

Washington is far away, and I know you're glad to be back. People who are not born here are always glad to return to Alaska. Think how we feel, who came from Alaska and who belong to the land. Thank you, Senator.

Senator **Stevens**. Thank you very much. We appreciate your testimony.

The next witness is Mr. Giegerich.

Good afternoon, Hank, it's nice to see you here.

STATEMENT OF H.M. GIEGERICH, PRESIDENT AND GENERAL MANAGER, COMINCO ALASKA, INC.

Mr. **Giegerich**. Thank you, Senator Stevens. Thank you for allowing me to testify this afternoon, and I apologize for not being able to do so this morning when I was scheduled to.

My name is Hank Giegerich, and I am the President and General Manager of Cominco Alaska, Inc. My company is a subsidiary of Cominco, Ltd., a Canadian mining firm whose main business is the mining and processing of lead and zinc.

Cominco presently has a number of mining prospects in Alaska, but by far the most exciting is the Red Dog, which is located on lands owned by the Nana Regional Corp.

Nana and Cominco negotiated an agreement for the development of Red Dog, and we have been working as partners since 1982.

When we were negotiating our agreement, we became concerned about provisions in the Alaska Native Claims Settlement Act, which allows stock in Native corporations to be sold after 1991.

Our concern developed because it's important that we know with what we're dealing. We are very pleased to be in partnership with a corporation whose shareholders are primarily local people; as we believe that involvement of the people who live in the area has made our job easier and the project better.

As well, we recognize the special relationship between the Native community and the environment; and, specifically, their reliance on land holdings.

Consequently, we have extended to Nana rights which give them the assurance that these values will be adequated protected.

The compatibility of the parties in any long-term undertaking, such as Red Dog, is a matter of critical importance. The success of the venture can depend on how well they work together and on common objectives.

These subjects were the basis of considerable discussion between Cominco and Nana, and our relationship has developed as we had hoped and anticipated.

However, if, in the 1990's, the makeup of Nana's shareholders would change and it became controlled by people from outside the region, we would have a new partner who might not get along either with the local people or with Cominco. This would cause serious difficulties, and perhaps even the ultimate failure of the project.

Therefore, Cominco supports action by Congress to allow Native corporations to maintain their Native ownership. The amendments under consideration by your committee will permit Native Alaskans to continue to have a prominent place in the development of resources on their lands. We think this is good for the Natives, good for resource development companies such as Cominco, and good for the State of Alaska.

The legislation before you has many provisions other than those which allow Native corporations to continue their Native ownership. I won't comment on most of these as they involve the internal affairs of the Native community, which is outside my area of experience.

However, on a personal basis, I would like to comment on the provision which protects indeveloped Native lands from unvoluntary loss as a result of taxation or court action.

This appears to be a reasonable provision in that it is also based on the concept that Native lands should pay taxes when they are producing revenues.

Much of the land owned by Native corporations is used for subsistence activities and, therefore, produces no revenues, and could be lost if it were taxed.

However, land such as Red Dog should, and will, contribute taxes when it produces revenues as a result of development.

I would also like to urge you to include wording in the legislation to make this process clear, so that the land does not get tied up in the intricacies of regulation and bureaucratic procedures.

I thank you for this opportunity to testify, and urge your favorable consideration of the proposed amendments.

Senator **STEVENS**. Thank you very much. Those are very good points, and we would be pleased to consider those in the amendments.

Next we have Mr. Menka. And Mr. Menka will be followed by Vernon F. Miller.

Let me remind the audience that if you wish to testify you must sign up with the clerk. Senate rules prohibit testifying from the floor.

Yes, sir, Mr. Menka.

STATEMENT OF VERNON L. MENKA

Mr. MENKA. Thank you, Senator. My name is Vernon Menka. I'm originally out of Akiachak, and living at Chiskachina. I have a consultant office here in town.

I would like to say that in the last ten or twelve years it has been my experience that the Alaska Native Land Claims is one of the most discriminatory pieces of legislation that has ever come out of the halls of Congress.

And I have to say this because I have been living for the last twelve years here. And I just—after the Act was passed, it just divided almost all of the regions, except those regions that got together as individuals. And those of us that weren't on the inside were kind of black-balled, got kind of shoved off to the side, whether we had values or not. We were just totally aghast at the small group of people that had control of a great amount of the wealth.

And I hate to sound bitter, but I guess I am a little bit bitter. Because it wasn't just me, it was a lot of other people that went out and got an education and came back here and got kind of stepped on.

So as an Alaskan, I kind of look at the federal administration and a lot of the laws that have been passed on behalf of our people by the United States Congress as another ANCSA as well as the State laws.

The Tax Status Act which has come out of the Reagan administration, I feel is a good piece of legislation which allows American corporations to contribute to tribal councils and we can do business as tribal councils and not just State corporations.

S.B. 2065 to me has—it's—it's just a big mumbo-jumbo, to put it frankly. I mean I have almost got a Ph.D, but that's the only way I can put it. It's just a big attempt to make a tribal document out of a corporate charter and it's never going to work. It's just a legal nightmare. And, as far as I'm concerned—this woman was talking about taxation—doggone it, really, the Indians—this was our land, we never signed it away, we never gave up our sovereign immunity. And the way I look at it, and a lot of other people I know look at it, too, is that any tax on any Alaskan is a discriminatory tax. And, Senator, you know yourself in the halls of Congress the way the Indians are dealt with down through time that these taxes are onerous, they're genecidal.

You know, I have lived under so much pressure the last ten or twelve years paying these flipping bills for my education, my legal education and everything else, and boy, it hurts. And it hurts my ex-wife, Diane, and my present wife Carol. You know, I'm not a failure, man, I'm not a failure, I'm a success.

So all I say is that S. B. 2065 muddies the waters even more than it has already. And I think that we probably ought to go back to square one and look at each region individually and have the villages this time, the people, vote on what they want; if they want to deal on some of these issues to transfer the assets to a Native tribal entity or State entity. Like I think CIRI will always be a State entity. Some of the more remote areas might be a tribal entity, and have resources transferred into that tribal entity. And if the people want to vote to have it that way, then let them have it that way. That's what the U.S. Constitution was all about, it was about local government and freedom. Governor Sheffield comes up here and peels off 60 million from the local government. How is the local government ever going to have the right to enforce local hires? It's going to be a big issue this next coming election. How is that ever going to work, if Sheffield is cutting off 60 million of the local governments.

Senator **STEVENS**. I have got to tell you that ygur time is up. I'm the last to say that the language that comes out of Washington is understandable by even those who are purveyors of that. But what the bill says is what you just asked us to do. Every region can make up their own minds on what they're going to do. That's what this bill says. And as far as taxation is concerned, if the land has not been put into commerce, it's not subject to taxation. Only that which is put into commerce is the subject of taxation or foreclosure.

We are trying our best to meet the objectives you have just outlined, but it's really difficult because there's no consensus really. And there will continue to be no consensus. So under those circumstances, those of us you all send back to Washington, at some time or another have to make decisions. That Act that you object to, I can tell you that a lot of people objected to it then. Most people forget that, but the objections came from those people who weren't even involved or knew what was in it. And as a consequence, you know, it's an ongoing process.

I will say this, there's a better chance that your children's children will still have land than those who were the children and great grandchildren of the people who got settlements in the South 48. Now if we achieve that, then I think we still have been successful.

Mr. **MENKA**. Well, I still don't throw my hat in on the fee-simple idea. To me it is discriminatory and what it does is, all these State rules and regulations, like putting municipal buildings in the villages, you know, it patterns everything after the State model. And it really gets away from the old tribal ideas, and that's why so many Indians are gone in this State. You know, we have a chance to change some of that up here.

And before my time runs out, Senator, I'd like to say that I, too, would like to ask for a moratorium on the Federal Land Act of Halskak. It's supposed to expire on October 20th of this year, you know, we're losing a lot of our potential ability to file for the 160 acre homesteads and agricultural pieces of ground.

Senator **STEVENS**. Well, I'd like to be able to accommodate you, but I think the opposition to that from outside Alaska makes it almost impossible, but we are trying to see what we can go along those lines.

I do thank you for your testimony and appreciate your taking your time to be with us.

Again, I want to make sure that everybody understands that if anyone wants to testify here today, they should register with the clerk. These hearings were scheduled from nine till four, and we may well hear you if you wish to testify.

Mr. Miller.

STATEMENT OF VERNON F. MILLER

Mr. **Miller**. Thank you, Senator Stevens. I would like to take the opportunity to thank you and your staff and estaff of Senator Murkowski, and the staff of the committee here today to give me this opportunity to present my personal opinions.

I am Vernon F. Miller, Chief of the Village of Wiseman.

Congress in 1971 passed the Act. It was one subject, two parties. One of the parties being the Natives of Alaska, the other party being the United States Government.

ANCSA and the 1991 amendments are a very complex concept document. The Act deals with Alaska Natives in aggregate though, subdividing us into regional corporations not individual tribes.

When treated as tribes in 1934, Secretary Greene made a 2.14 million acre reservation for 59 families about 60 miles to the east. That's where I was born. That was done under the authority of Congress to regulate Indian affairs.

This Act that we're trying to amend today is solely done under Congress.

In the definition, Section 3 of 92203 of the ANCSA Act, Alaska villages and groups are tribes. The U.S. Government has a long history of negotiating treaties for the tribes for the benefit of both parties. Such could be the case with the Native Settlement Act of 1971.

I would, therefore, urge that the aforementioned definition and the intent would be inserted in this, the Senate bill 2065, to say that it is Indian legislation, opening the way for treaties and treat us as tribes.

In discussing those treaties, it would be possible to discuss that there would be no alienation of the stock. If you lose the stock, you lose the land under the present system. There could be provisions for the elders and the new-borns. I hear eveyone saying that that will dilute the stock. I have a daughter that's born after 1971, and I have stock, but there is the inheritance form to pass my stock on to my daughter. And while, if I'm gone and they give her new stock, mine is still passed on. So that at least in my way there's an inheritance clause that protects my stock. Everybody thinks that if we make new stock that we're going to generate twice the volume.

Then those that have no heirs, under the laws of Alaska, that stock—and no will—that stock goes to the State. Maybe there could be an educational trust fund for those that have no heirs, and to open the enrollment to those that were missed and to those that were born after 1971.

The present legislation under 7(i) will protect the lands that are subsurface to the village corporations. That provision is in the Act and I see nothing that would jeopardize the regional corporations' interest because of this self-regulatory, and the suit pursuant to 7(i) of the Act.

And again, Senator, I thank you, and I appreciate being able to come here and discuss the matter.

Senator **Stevens**. Thank you very much.

Now, we have about 15 minutes left, and if there is anyone that has already testified and thinks they would like to extend their testimony, we would be glad to listen to further testimony from those people who have testified.

Is there anyone that wants to amplify their remarks?

[No response.]

Senator STEVENS. Very well. I want to thank Marcia B. Mayr, who is the reporter here, for her diligence and time on this issue. And I appreciate the help of the staff. There have been 49 witnesses who have testified today. The record will be open for statements for 30 days. As I have indicated before, they will be printed in the record subject to the review of the staff to see whether they're too long and would be kept in the records of the committee.

Your statements may be given to Senator Murkowski's office here in Anchorage. He is a member of the committee. Or may be sent to his office in Washington, DC, or may be sent to Mr. Bevinetto at the Senate Energy Committee, U.S. Senate, Washington, DC.

I do appreciate the fact that all of you testified. I hope you understand the time limitations. Our visits home are of necessity limited, and we have had appointiments with others and other obligations to meet while we're here. I am delighted that we have been able to have this hearing.

I, for one, hope that many people will read it with the understanding that history is behind this Act and the history of other settlements that came before this Act. Those settlements that came before this Act did not have the chance to even be considered 15 years later. The very fact that we're here 15 years later still talking about the implementation of this settlement shows that it's a living proposition and not just a one-shot settlement with which the Federal Government disposed of its obligations to people whose lands have been taken and turned over cash to them and walked away.

I think that we have an on-going interest in the vitality and viability of the settlement and we would be pleased to have any suggestions that you may make to further the purposes that we're trying to achieve here and goals that we're trying to achieve here in this legislation that's before us.

Again, my thanks to everybody. This hearing in Anchorage is adjourned.

[Whereupon, the hearing adjourned, subject to the call of the Chair.]

TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

THURSDAY, JULY 10, 1986

U.S. Senate, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Committee on Energy and Natural Resources,

Bethel, AK.

The subcommittee met, pursuant to notice, in Bethel, AK, Hon. Frank H. Murkowski presiding.

Present: Senator Murkowski.

Also present: Tony Bevinetto, professional staff member.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator **Murkowski**. Good morning. I would call to order at this time this special Senate Energy Committee Hearing here in Bethel, Alaska. This is the Subcommittee on Public Lands and Reserved Water and Resource Conservation of the full Committee on Energy and Natural Resources.

My name is Frank Murkowski. I have personally had the pleasure of conducting five of the six hearings which have been both in Alaska and in Washington, DC, held over the last several months on 1991. I have conducted the hearings in Hoonah and Barrow and Kotzebue, Anchorage and Fairbanks, and the hearing in Bethel today. There has been one House hearing held in Washington, DC, on the matter.

It's anticipated that this will probably be the last hearing held in Alaska. It's possible that there may be a Washington hearing held either the latter part of August or early in September. That is being tentatively planned at this time.

Let me introduce to you some of the folks that are with us. On my immediate left is Marcia Mayr, who is the formal court reporter who is responsible for transcribing the proceedings this morning. On my immediate right is Tom Roberts, a member of my staff that came out from Washington, DC, and is responsible, along with two other members of my staff, for the area generally referred to as Native Affairs within my Senate office. And on my far right is Tony Benvinetto. Mr. Bevinetto comes to us from Washington, DC. He is assigned to the Energy Staff. He is a professional member of that staff, and is assigned to the Senator who oversees the subcommittee, Senator Malcolm Wallop. Senator Wallop is from Wyoming. But Mr. Bevinetto's responsibilities specifically are to the Subcommittee on Public Lands, Reserved Water and Resource Conservation. Of course, I am a member of that subcommittee as well.

We are going to pass around a yellow sheet, and we would like to have your name, your affiliation or representation, if you represent one of the village corporations, and your address. It would be very helpful to us. The reason for that is that it gives us a base of reference as to who was at the hearing. Of course, we will have the witness list as well. If you would like to receive copies of the hearing, why those can be made available also.

Earlier this year, at the request of the Alaska Federation of Natives in convention, the Congressional delegation introduced the legislation containing amendments to the Alaska Native Claims Settlement Act. And as I have indicated, we have had five hearings since that time.

Basically, the purpose of the hearing is to determine how Alaskans feel about this legislation, and to continue gathering information. I, personally, have probably sat through in excess of 225 or perhaps 250 witnesses who have expressed their views on the various points covered in the amendments. And the testimony given at the hearings, plus the letters, the telephone calls from many Alaskans have really shown that there exists a wide range of opinions on many provisions of the 1991 legislation. And that is, of course, as it should be. And that is the whole purpose of the hearings.

Provisions of the bill provide for options to the Native corporations for addressing issues such as stock ownership, stock transfer, the question of dissenters' rights, continuation of stock restrictions, and the issuance of new stock to new Natives these are all issues that fall into the cateogry of the committee hearing and the witness and the testimony hereto.

Now, the responsibility for policy decisions on these issues really rests with Alaska's Native community. On the other hand, there are certain sections of the bill that have a broader impact that affect all Alaskans.

Extending unlimited tax-exempt status to undeveloped lands, and ensuring that the legislation does not foster the establishment of sovereignty are two such issues.

It is imperative that we have the views of a wide range of Alaskans on these matters in order to ensure that the legislation embodies basically sound public policy for the benefit of all Alaskans.

I have stated many times that the language of the 1991 Amendments is not something that was cast in stone initially. Changes to the bill appropriately will be made to reflect the views of Alaskans for the benefit of all Alaskans as we proceed with this legislation.

These changes, however, must conform to certain ground rules. And I think that it's appropriate that we indicate that the purose of the legislation was not to foster the establishment of sovereignty. There is to be no tax-exemptions for developed, revenue-producing lands, and the Federal and Stae governments will not provide any additional land, any additional money to Native corporations for those born after 1971. These issues will have to be addressed under existing corporate stock dilution formulas.

I might elaborate a little bit on those points because, after listening to the extensive testimony, it seems to me that 1991 can be identified pretty much as four issues. The first two issues involve, really, only Alaska's Native community.

The first of those is the reality that the stock is currently, under law, transferable in 1991. That means it can be sold; it can be put up for collateral for a loan; or somehow transferred, should an individual Native so desire, to a non-Native. It's the expression of the Alaska Federation of Natives that there should be an extension of time, allowing the prohibition of the transfer of stock beyond 1991. That time is not specific in the bill. It's left up to each corporation to determine how long they want to keep the stock non-transferable.

Now, there are both good and bad points in the sense of not being able to have the stock transferable in 1991. Obviously, it means the stock can't be sold so income can be derived from its sale. It means that it can't be put up as collateral for going into business.

On the other hand, it ensures that the stock will remain in the Native community for an extended period of time.

And, obviously, if there are earnings, they can be disbursed through the dividend process. That really affects only the Natives of Alaska because they are the only recipients of the stock. So that's really a Native issue.

The second issue is the issue of those born after 1971. Because there are no provisions in the initial legislation to take care of those children, no additional stock, the stock only went to those living at that time.

The Native community, through the AFN has again expressed its desire that these young people be able to participate in the claims. Now, there is only the existing stock that is out there among the current shareholders. So if those current shareholders wish to work out some formula where they basically give up a portion of their stock to take care of those born after 1971, that, again, is really an issue that involves the Native people of Alaska because, again, they're the recipients of the stock.

And the only way that the stock can be granted to those who have been born since 1971 is to dilute the existing shareholding by some formula. In the testimony that I have heard, there has been very little objection to either of the first two points.

The third point is the issue of taxation. And the current law says that the land shall be taxable 20 years after it has been transferred.

There's about eight to nine million of the 40 million acres that has not been transferred. Of course, the 20 years is not up. The expressions of those witnesses, for the most part, indicating a concern over this provision is that much of the land will have no revenue-producing capability. Much of it is subsistence land. If it's taxable, how are they going to pay the taxes on it. They are probably going to have to sell the land.

So the proposal of the AFN now is that you only pay taxes on it if it produces revenue. Now, there is a need for clarification. Does a subsistence dwelling constitute an improvement that's substantial enough to generate revenue? Does a piece of land that is used for commercial fishing generate revenue in the sense that it should be taxed?

What the League of Alaska Cities is doing is looking at that particular clause to see if they can come up with an appropriate formula and a definition of what constitutes reasonable improvement so that it's taxed.

But I think the AFN is to be commended in the manner in which they approach this, because the point is simply to make sure that the land is not lost due to tax foreclosure sales; that any land that is taxed is land that generates revenue. And I have not seen a great deal of testimony in opposition to that, the third point.

The fourth point is one that causes a good deal of confusion and misinformation. And that's wording in the language that suggests that assets can be transferred to other entities.

Theoretically, you could have a village corporation that would choose to change its status from a village corporation to an association or a reservation status. In so doing, under the Indian Reorganization Act—and this is all theoretical—they could technically achieve a status where they could take their land which would be non-taxable to any taxing body into this association or reservation. They could declare a state of sovereignty. They could declare that the land was Indian land. They could declare that they had the authority to manage fish and game, which is contrary to the State's constitution.

Now, this is the area that has embroiled most of the controversy and most of the misinformation.

The question of objective here is an important one to reflect on, because some of the corporations have indicated that they might want to change their status. So the point of this amendment is to allow them to have that right, if they so decide. But if they do want to do that, each individual member of that corporation is going to have to turn their shares of stock in, for the benefit of all those that would participate in the new association, or the new reservation. They would lose whatever individual equity or interest or value that they personally had in that stock for the benefit of all those concerned.

As I indicated in my remarks earlier, it is not the purpose of this legislation to foster sovereignty. As a consequence, I feel it would be necessary to move this legislation along so that it would pass as representing the consensus of Alaska's Native community and non-Native community alike; that there be specific prohibitions against achieving a sovereign status.

I think that basically covers the general testimony that we have received so far on the issue of 1991. What we anticipate doing after this hearing is to schedule a hearing sometime in Washington, either in August, but more likeley in September. And if there is a consensus at that time, it would be quite likely that we could move the legislation through the Senate yet this year.

The calendar is rather full. The ability to hold another hearing in Washington is going to be dependent on Senator Malcolm Wallop and his specific schedule on the Public Lands Subcommittee. The other situation is that Congress is going to be reconvening again the 15th of July and will be out on the 15th of August until the 1st of September. And then we will be going back in September and getting out again on the 5th of October. And we anticipate going out for the year at that time. So there is not much time.

But in any event, that is more or less a summary of where things stand.

Now, from the standpoint of this hearing, let me give you a few of the ground rules before we hear from the witnesses.

Out of respect to all who wish to testify today, I would ask that all witnesses summarize their statements in their oral testimony, because their entire statement will be entered into the formal record as if read.

We would ask that you limit your oral testimony to five minutes. We have arranged some of the witnesses to present their testimony in panels. And the witness list is posted, and anybody may view it, which shows the order of testimony of those who have indicated an interest. If you need a witness list, members of the staff will be happy to provide it for you.

As I indicated, a printed hearing record will be made available upon request. All you have to do is provide your name and mailing address. It takes a little while to put these together, because compiling it also will include the addition to the Anchorage and Fairbanks hearings.

I think that's enough for me. I came here to hear you, so we will proceed with our first series of panels. It's my understanding that Representative Johne Binkley, while the first witness, will be submitting his testimony in writing to the committee. Of course, it will be entered in the record.

And, Representative Binkley, if you are inclined to want to make a statement later on in the hearing, you are perfectly free to do so.

Mr. **Binkley**. Thank you, Senator.

Senator **Murkowski**. I would call on the next panel, Janie Leaske, President of the Alaska Federation of Natives; accompanied by Mr. Oliver Levitt, Co-Chairman of the Alaska Federation of Natives.

We were coming over together from Anchorage today, but they got on the wrong airplane. I didn't know they were going to make it here until they got here. But I was on the right airplane. That's one of the nice things about being the chairman of a hearing like this, you determine which is the right and which is the wrong airplane.

Ms. Leask, Mr. Levitt, you may appear in any manner in which you so desire.

STATEMENT OF OLIVER LEVITT, COCHAIRMAN, ALASKA FEDERATION OF NATIVES, ACCOMPANIED BY JANIE LEASK, PRESIDENT, ALASKA FEDERATION OF NATIVES

Mr. **Levitt**. Thank you, Mr. Senator. We were on the right plane. He was on the wrong plane. We get to say that because we're Natives. [Laughter.]

Senator **Murkowski**. Well, I could declare that out of order, but I won't. [Laughter.]

Mr. **Levitt**. Senator Murkowski, members of the Staff. It is both an honor and a pleasure to appear before you and before your committee. My name is Oliver Levitt, Co-Chairman of AFN, and with me is Janie Leask. She has done an admirable job throughout the

State of getting a consensus of Alaskan Natives. It has been long, hard years of developing these consensuses.

We have a brief statement for the record. More extensive remarks will be presented during the Washington, DC, hearings later this summer—we hope that it's this summer.

Let me just briefly give you some background. AFN has been working on this issue for serveral years, the 1991, which has basically a wide variety of issues, but basically has come to mean to the Alaska Native people a long-standing concern for protection of the land for a cultural and economic purpose, and for making the settlement received in 1971 work for the benefit of the Alaska Native people.

We would like to reiterate our desire with the committee to see legislation passed this year. We have briefly reviewed the legislation which came out of the mark-up sessions with the House Interior and Insular Affairs Committee.

The legislation emerging from this committee contains some of the changes which we feel are important and are improvements, and are ones which we feel and hope that your Commmittee will review.

Some of the things that are in this legislation are to increase voting requirements by shareholders; to lift stock restrictions; new provisions which protect Natives who receive stock, land or other benefits from losing eligibility from State and Federal programs; expansions of the provisions of shareholders to petition the board to include all options rather than just lifting the restrictions.

The inheritance provisions contained in the House version is closer to our original desire to inherit stock that's Native-owned.

The 1991 legislation and the options it contains are very important to Native people. We have spent a lot of time, dollars and energies these past four years in working towards solutions which reflect the consensus.

The resolutions on which the legislation is based reflect the consensus reaching during the special March convention held in 1985.

We have attempted to keep our people informed of the legislative process, while still attempting to work our differences among us.

For a wide variety of reasons, we feel this legislation needs to be passed this year and will work with you and the members of your committee and the Seante to ensure that it be passed.

Senator, we don't want to take much more of your time than necessary, but we will be happy to answer any questions that you may have.

Senator MURKOWSKI. Thank you.

Ms. Leask?

Ms. LEASK. I don't really have anything to add to Oliver's statement.

Senator MURKOWSKI. All right. I wonder if you have had an opportunity, since the House committee voted out the House version, to develop any suggested changes that the AFN may feel would be appropriate and should be considered?

Ms. LEASK. Senator, we had a meeting a couple of days ago of our 1991 Steering Committee, and we reviewed some of the different changes in there.

As Oliver pointed out in our statement, we basically do not have any problems with the majority of changes that occurred during the mark-up session.

We do have a suggestion again for the rewrite of the disclaimer. We felt that the one contained in the mark-up session or the version that came out is a little bit cumbersome and we have streamlined it a bit. And we will be sending you our suggested language.

I believe it accomplishes the same purpose in that it does refer to the ANCSA amendments.

Senator MURKOWSKI. We have been advised by the Department of the Interior, which has the responsibility for any suit that may be brought with this legislation concerning the right of a dissenting corporate shareholder. They may take issue with the fact that his or her stock, as an example, may be prohibited from being transferred to an open status after this legislation is passed.

The Department of the Interior has indicated that they won't have any liability if a dissenting shareholder takes issue with a continuation of the restrictive stock.

And it's my understanding that the AFN attorneys have been working with the Interior to attempt to address this issue. Because, obviously, the federal government, and the Department of the Interior, particularly, are going to be important in the sense of giving this legislation their blessing, from the standpoint of its legal status.

And I'm wondering if ygu could for the record just indicate the current status of that issue now that your attorneys have meet with the Interior Department on the liability to the Federal Government on the dissenters' rights issue. There are some, obviously, that don't want to see the stock extended. Could you provide us with any information?

Ms. LEASK. Well, the most current information that we have is that there were some meetings that did take place between our attorneys and other attorneys working for regional corporations with a solicitor back in Washington, DC—I believe his name is Tarr—regarding the constitutional questions of the Fifth Amendment taking.

Those meeting did take place. We didn't really hear that anything positive came out of those meetings as far as any agreement or getting any closer together on any kind of positions at all.

We're still trying to communicate with the Department of the Interior. It's been pretty frustrating, as I'm sure that you well know, but we're trying to continue those communications with them in an effort to reach some agreement, or at least to be able to specifically pinpoint areas of disagreement. We really have not been able to do that yet.

Senator MURKOWSKI. The reason I wanted to make sure this area was in the record was simply to share with those that are with us today the concern that the federal government has in making sure that whatever legislation passes does not result in a minority shareholder claiming that his or her rights were violated and come back and sue the federal government for not protecting their individual rights.

I think it's appropriate that the record note that this is a continuing concern. It's a concern that will have to be addressed to the satisfaction of all parties involved in an attempt to limit the extent of the liability that the federal government would assume if a shareholder claimed that his rights were not adequately represented. The Federal Government has a trust responsibility in that sense to protect each and every individual Native right.

I wonder if you could, for the record, indicate why the AFN proposal contains the different voting standards and requirements that it does. Could you tell us the reason for the different standards? Is there a problem with making all voting standards the same; such as, the 51 percent majority, no quorum? There seems to be a number of different structures in the proposed legislation.

Ms. **Leask**. If I might. For the lifting of stock restrictions, for shareholders to enact all of our various options that are contained in the legislation, we did have just the simple requirement of a majority be present, and then it would be a majority of those that would be able to make that decision.

We really felt though, and it became pretty obvious in discussions, not only within the 1991 Steering Committee and the AFN Board, but throughout the State, that people really felt that that requirement for lifting restrictions on stock was too low. So that is the reason for our change that we had advocated in the House was to make—this is the heart of the whole 1991 issue, is to make that a very important decision to be made by shareholders, and to then raise it to 50 percent plus 1 of all outstanding stock.

There is some discussion—we haven't really resolved it, I guess, and we haven't really addressed it as far as really raising the remainder up to that 50 percent plus 1 to enact the rest of the options.

I guess at this particular time we really feel that for lifting stock restrictions is the most important, and that ought to be the highest.

Senator **Murkowski**. One of the amendments proposed is the issue of including those children born after 1971. I'm wondering if you have any suggested formula, since there's not going to be any more stock issued, in the sense that the stock that has been issued was issued for basically an interest in the corporations which either have surface or subsurface rights, depending on whether they're regional corporation or village corporations.

The concern I have is, while there is certainly no objection to enrolling or taking care of those born after 1971, since there's not going to be any more land or money, what is the proposed formula? Aren't those existing Native shareholders going to have to give up a portion of their stock to take care of these born after 1971, and what happens if somebody doesn't want to do that?

Ms. **Leask**. Well, that certainly is the crux of the whole debate of issuing new stock to our young people born after 1971 is the whole point that it would dilute whatever existing stock the shareholders have. That's why we felt it was really important that it remain an option for one, to be voted on by the shareholders of whether or not they want to enact that.

And then also, to go further, to say that stock can be issued for low or no cost, to, again, leave that up to the individual shareholders within a specific corporation and not to have one statewide solution for everybody; realizing that shareholders in various corporations differ in their own desires. And for some shareholders, or at least the majority that we have heard, there is the whole question and the issue of dilution. But for the majority of shareholders, that's really not an issue. They would rather see the young people be issued stock. And if it means that their stock would be diluted, then they understand that.

Senator MURKOWSKI. So as I understand, that would be the right of the corporation to make that determination by its own shareholders. So what you're asking for is just that right in the legislation?

Ms. LEASK. That's right.

Senator MURKOWSKI. And could this be both village and regional corporations' stock as well?

Ms. LEASK. Yes.

Senator MURKOWSKI. And the issue of the authority requested to transfer assets to other entities, which gives, I gather, theoretically at least, the flexibility of a village corporation to abandon a corporate structure and go into an association or a tribal structure or something like that. The intent is to have the right to do it if the majority of the shareholders vote to do it. Is that basically it?

Ms. LEASK. Again, yes, that is an option.

Senator MURKOWSKI. At the individual meetings that you have held throughout the State, you have listened to, I assume, testimony from those who have indicated they want to have that right. I'm interested in one specific point. That is, your interpretation of the willingness of the shareholders to turn in their stock in a corporation for the benefit of belonging to an association or a reservation, which would not give them any individual ownership, it would simply give them an ownership in perpetuity. And they can claim that the share has a value to them as an individual, because they hold a stock certificate. It's hard to say what it's worth, but it has a substantial value. And they would turn it in for the benefit of everyone.

That would seem to be a very significant decision that would have to be made after a good deal of thought, because they could pass on their certificate to their heirs now. But once it goes into an association, they have no ownership, it belongs to everybody.

I'm interested in the perception of some of the Native groups that are suggesting that, as to why they feel that the corporation has not been responsive to their needs.

Ms. LEASK. Well, I think that kind of goes back to the whole concern that Native people have for land, and also the feeling that the corporate vehicle does really not protect the land as fully as another kind of organization might; such as a non-profit of maybe a tribal organization. That's on the one hand. And I think that, to a lot of them, is a bottom-line concern.

But to a lot of people, too, it's the whole inability of the corporate structure to work. And it's more geared at the villages rather than at regions. Because villages just—the corporation running off of assets and resources that really aren't there, a lot of the villages just—it's not really a viable structure. And there are a lot of requirements that go along with a corporation.

As far as your specific point for how do the people feel about having to turn in their stock certicate which is worth "*x*" amount of dollars. I guess at this particular time, since we have really been, at least through the AFN level, really dealing with just the whole—the whole possibility of opting out of the corporate structure into something else that people would feel more comfortable with.

We haven't really dealt with the individual and how does he feel or she feel about turning in something that may be of potential value to them and in which maybe have received some dividends back in for a membership organization. We have really not gotten to that particular level.

But I could just say in the rest of our conversations that we have had at various meetings, retreats and board meetings and conventions and just going out and talking with people, I think that again the majority—and this would vary with corporations where you would go—the majority of people, I think, on a statewide basis would identify more with a membership organization and with a group rather than the individual, and the individual having this piece of paper and the individual stock. I think they would probably go along with the betterment of the group and what is the betterment in order to protect the land rather than my owning a hundred shares of stock. That's just a sense that I get.

And, Oliver, I don't know if you have had something a little bit more specific in dealing with your villages, but that's at least the overall statewide sense that I've been getting.

Senator MURKOWSKI. So it's fair to say that the intention of the AFN here is to just give them the right to transfer their assets to another entity, from a village corporation to an association or reservation, if they wish? It's their option.

Ms. LEASK. Yes.

Senator MURKOWSKI. As opposed to the situation now which does not give them that option; they are a corporation and that's it.

Ms. LEASK. Yes.

Senator MURKOWSKI. You, as the AFN, had a tremendous involvement with the formation of the legislation initially back in the late sixties and seventies. And it was my understanding that at that time there was a great deal of study given to the specific vehicle that would result in the settlement of the claims, whether it be a corporation or a reservation. And it was determined by a significant majority of Alaskan Native people that they did not want to pursue the reservation status, but preferred the corporate status.

The rationale for that, I gather, would be best found in going back and examining the record and the testimony given at that time by the Native leadership and the residents of Alaska as they deliberated on which way to structure the Claims Settlement.

But I think it fair to say that corporate law provides obviously a higher return and also a higher risk. And it's my observation from the hearings that we have had that there has been a sensitivity, particularly from the rural areas of Alaska, concerning the fear that the land may be lost by the 1991 dates coming. At that period of time, the transferability of the stock could dictate that there would be a sale and a resulting loss of land.

That doesn't necessarily mean that that's the case, but that feeling seems to permeate a good deal of the rural testimony.

I assume that the AFN has no official position on the issue of whether the corporate structure was in the best interest of Alaska's Native people vis-a-vis the alternative which would have been a reservation status.

Ms. LEASK. No, we don't really have a formal position on it. I think that you're right in that a lot of—back in the late sixties and the seventies when the whole negotiations and all were going on for the settlement of Native claims, the Native leadership at the time heard an awful lot of disgruntlement from the Lower 48 Indians about the reservation system, and there were a lot of problems with it, and that some of the Indian leadership at the time did not feel that it provided a lot of opportunities for a lot of benefits for future generations of Native people.

And I think that the corporate structure was all in the thinking of the late sixties of the Great Society, and that economic development was the way for minorities to get ahead and to be able to play a large role in their economic development in the state of Alaska.

It was, I believe again—I wasn't around at the time, but I understand that there was some discussion about going to IRAs. And the leadership, at least in southeast Alaska, who had a lot of experience with IRAs, rejected those as being the vehicle for the settlement.

I don't know if the Native leadership at the time really came on and said that the corporation is the way to go. I think that kind of just came along with the negotiations.

Senator MURKOWSKI. Well, there really are not a lot of alternatives. There's the corporation, or the reservation, or you can call it an association or whatever, but it basically has the thrust of the reservation status. Those are about the only two alternatives that you really had. And I guess it's just fair to summarize that the corporation certainly offers more incentive from the standpoint of the individual member of the corporation. The individual Native is able to participate in the development and decision-making, while the reservation offers certainly little initiative, but very little risk either. So that's where we're at.

Ms. LEASK. Theoretically, I think that that's right, as far as corporations go. But when you take the corporate structure and you put it on top of the villages in rural Alaska, there really is no economic base and people are really not used to dealing within the corporate structure. Then it becomes a real cumbersome structure, and it's one that these people have really had a lot of difficulty with.

I don't think there's any question that in some of the larger villages and the regional corporations, that people in the last 15 years or so have been able to make the corporation work and have been able to make it be very successful in some cases.

Senator MURKOWSKI. My last question concerns the authority that's being sought by the AFN amendment which addresses the question of allowing the transfer of assets to other entities, and that's a legal terminology for moving a village corporation to an association or reservation or whatever. What is the intention of the AFN regarding the interpretation of some that this achieves or could achieve a sovereign entity, and in so doing, that entity could declare it Indian land and manage the fish and game in contrast to the State constitution? Which is, I think, the point of a good deal of misinformation that's circulated by various people on this proposed legislation.

Ms. **Leask**. It's our intent throughout the legislation to make this legislation sovereignty neutral, to not take a position either for or against something that would either enlarge, diminish or change this currrent status right now of the court cases of sovereignty or what is on the books regarding the rights of tribal governments.

We have attempted—and it's been a struggle to keep the balance within the Native community, because there are those within the Native community that would like to have the legislation come out and say that there not only is Indian Country but these are the boundaries of Indian Country, and villages do retain certain powers.

But we have said the legislation was real important to address the concerns we have regarding 1991 issue.

While the issues of sovereignty are valid concerns, we don't really feel that the 1991 legislation is the vehicle to address that. So we have tried very hard to make the legislation neutral on the whole issue of sovereignty.

Senator **Murkowski**. The issue of the existing IRAs, Indian Reorganization villages which are constructed in the State—I think there are 78 to 80 of them, this would not affect in any manner their current authority under federal law?

Ms. **Leask**. No.

Senator **Murkowski**. It would not extend or contrat that authority. They wold have what they have now. And it would not preclude additional villages from applying for IRA designation?

Ms. **Leask**. I don't believe it would preclude. It's not our intention to really even get into the whole IRA question at all. And I know that at the recent House hearings in Washington, DC, in April and again during Mark-up, statements have been made over and over again that ANCSA was not even intended to address the rights of tribal governments, let alone these amendments.

Senator **Murkowski**. Mr. Levitt, do you have any further statement or observation?

Mr. **Levitt**. No, Senator.

Senator **Murkowski**. You have had a very eloquent partner there in speaking on behalf of the AFN's position. I want to commend you for your testimony and the thoroughness of it. We have gone into it obviously at a great length here primarily for the benefit of (a) establishing these areas of concern for the record, and (b) to share with those here participating either as witnesses or observers. I went into these questions specifically to try and lay, if you will, a bit of foundation for the issue, as represented not only by my observation with the previous witnesses, but by the position of the AFN in the areas that concern most of Alaska's Native community. And I want to thank you for your testimony and your contribution to the record. You're excused.

Mr. **Levitt**. Thank you.

Mr. **Leask**. Thank you.

Senator **Murkowski**. I might add that I don't intend to necessarily spend that much time with all other witnesses, for obvious reasons. I felt it appropriate that the representatives of the Alaska Native community be given a little more than a casual testimony, a little more scrutiny by myself.

Our next witness will consist of a panel of four gentleman: Mr. John T. Hawk, Chairman of the Board of Calista Corp.

Mr. VASKA. John's not here, Senator.

Senator MURKOWSKI. All right. And Mr. Glenn Fredericks, President of the Kuskokwim Corp. You may be seated at the witness table. Mr. Gene Peltola.

Mr. VASKA. He's not here, Senator.

Senator MURKOWSKI. All right. Mr. William C. Bivin, General Manager, Bethel Native Corp.

So we have two of the four with us. And I would indicate that the record of this hearing will remain open for a period of two weeks. And I would appreciate it if you could communicate with Mr. Hawk and Mr. Fredericks and tell them that we would be pleased to have their written testimony submitted. It will be entered into the record. And, for that matter, any other people that may want to have their statements entered into the record, they may do so up to a period of two weeks from now.

That should come to my office in Anchorage, the Office of Senator Frank Murkowski, Federal Building, Anchorage, Alaska.

Gentlemen, you may proceed in any manner that you wish.

STATEMENT OF GLENN FREDERICKS, CHAIRMAN OF THE BOARD, THE KUSKOKWIM CORP.

Mr. FREDERICKS. My name is Glenn Fredericks, Chairman of the Board of the Kuskokwim Corp.

Before I read my statement, I have a very short statement, I would like to elaborate. I have worked with the Native Claims Settlement Act since '71, the conception. We are a merged Village Corporation, consisting of 10 villages in the Middle Kuskokwim from Kalskag on up the Stony River, consisting of 1220 shareholders.

I have been the President and the Chairman of that since the conception. And we have been—I have traveled continuously through my area. And the first thing the people tell us is to protect the land at all cost, because those are the subsistence, most of it was taken for that purpose when we selected it.

In our dealing with the Native Claims Act, we have tried and tried to figure a way out to set the land aside, somehow protecting the land. The theory came up to us that we can take the land and make it into another association. We talked about co-ops. Just the land, Senator, not the stock. The stock will be held by the Kuskokwim Corp., or any businesses that it has started. We have a barge company, we have timber and so forth. Those would be companies that the Kuskokwim would handle. And from those companies then, the 1971 kids that were born after that, would get stock from those companies.

Therefore, it would not dilute, in my mind, the original stock that was given in 1971. But we have companies, like, we have planning company, we have a barge company. Each one of those would issue, maybe not a hundred shares, but 25 shares to kids born after 1971.

When you talk about diluting, that way it would not dilute. The only thing we're talking about is the land. We have not yet valued that land; therefore, it has no value until such time as we put a monetary value to it.

And once that land is put into an association, my company is thinking that if we were to take out 200 acres for a timber company, only that 200 then would become corporation timber company. From that then we would issue stocks to our original shareholders and to the kids after 1971.

We would lease the land, not outright—the corporation that we formed would not buy that land, because if it goes bankrupt, then that land would revert back to the landholders. And that is the system that we were looking at.

And you mentioned, I noted, we didn't talk about sovereignty. I would be very hesitant at this time due to the court cases, uncertainty of the IRA. You and I are well aware that it has different meanings to everybody. I'd be very hesitant—in fact, the Secretary himself told that he would not take that land in trust. And why would I want to put my land into an IRA till that thing is solved, and I don't know when that will be.

So, therefore, my idea was a co-op so that members and the protection of that land somehow, and that protection would probably come from some of these amendments that we have initiated to Congress.

And that is a key thing in our deliberation. We have been very fortunate, Senator, to merge in 1977, when we did merge. We have a little better than a million acres of land. We have a lot of resources that we would like to produce. And we have declared seven dividends seven years in a row, equal to a million point two to the shareholders. We are very fortunate to have merged.

As you know, the merger concept was introduced by the AFN and accepted by Congress in 1976. And soon after that we merged. And this is our theory, that all we want to separate is the land. The corporation still will function. And from those spinoffs then, would the 1971 kids be eligible. That is how we were looking at it up in our area.

And from my statement, Senator, I appreciate the opportunity to testify before you.

My name, as I mentioned, is Glenn Fredericks, Chairman of the Board of the Kuskokwim Corp., a merger of ten village corporations in the Middle Kuskokwim area, representing 1120 shareholders.

We are in full support of the 1991 Amendments to the Alaska Native Claims Settlement Act, submitted to Congress by the Alaska Federation of Natives.

We also fully support Congressman Don Young's substitute, H.R. 4162, containing important changes we feel should also be included in Senate Bill 2065.

As you know, 1991 approaches rapidly. It is important, therefore, that passage of these amendments be expedited by the U.S. Congress.

Senate action hinges, of course, on reports and findings of the Committee on Energy and Natural Resources. Thus, we urge you to keep mindful as you deliberate the critical nature of the timing involved and make every effort possible in your deliberations to ensure that the amendments can be voted on by the Senate before the close of this year's congressional session.

These amendments represent over three years of work on the part of the Alaska Native community; work which was tedious, time consuming, involving hours of research, hearings and conferences and representing a multitude of interests among individuals and groups from every region of the State.

The end-result before you represents the best of compromises reached on issues which are critical and of significant impact to those who are to be directly affected in 1991.

With the destiny of our people and the viability of our Settlement Act in your hands, we are confident that you will do all within your power to ensure that these amendments become reality in 1986.

Thank you, Senator. If you have any questions, I'll be happy to answer them.

Senator MURKOWSKI. Thank you. I will have some questions, but I will save them until Mr. Bivin has had a chance to make his statement.

STATEMENT OF WILLIAM C. BIVIN, GENERAL MANAGER, BETHEL NATIVE CORP.

Mr. BIVIN. Thank you, Senator.

My name is Bill Bivin. I'm the General Manager for the Bethel Native Corp. We have approximately 1,750 shareholders as of this moment. My comments are going to be very brief.

I would have to second Mr. Frederick's concerns about the land. This is the second village corporation I have worked for, an I have been working with village corporations for approximately four year, three or four years now. And for that whole time, at least the people that I have dealt with, the overriding concern has been the land and the protection of that land, and seeking some mechanism for the protection of that land.

You can look around Bethel here, our lands are, for the most part, right around Bethel. Those lands are what's left of the patrimory of our shareholders. And, in that sense, we need to find a mechanism so that it is not at risk.

I feel personally that there ought to be—and I have expressed this before my board, that there ought to be lands that are at risk and lands that are not at risk. And how that could be defined I don't know.

But, certainly, if we're going to act as a corporation and be in business as a corporation, then we ought to assume some risk. For example, the developed land; if we build an office building, and that land and that office building is used as collateral, and we do a poor job of being businessmen, that land certainly should be at risk. But to put 160,000 acres of land at risk because of poor decision, perhaps, in the best interest of our shareholders, it is not.

So I have identified in my own mind that there needs to be lands that are at risk that are used by the corporations. I think it follows similar to what Mr. Fredericks said here. But, certainly, we have to provide for the protection of the lands and find a mechanism to do so.

In that sense then, we also support the AFN Amendments, as we feel that it provides the most flexibility going into 1991.

The third item that I wanted to mention here is, we would like to see a clarification of Section 13(a) of ANCSA. The BLM is determined that they do not have the responsibility for surveying for shareholder homesites. 13(a) has to do with the surveying.

We feel, and it's my feeling from the managment side, that we want to establish—I know the Board wants to establish the shareholder homesite. To do that for 1,750 shareholders at this time, I don't personally see any feasible way of doing that within the short period of time left to us.

There are some opinions that have been written that would indicate that that is a responsibility of the BLM. The BLM feels that it is not. I do feel that a technical amendment for clarification of that a technical amendment for clarification of that to include shareholder homesites might be appropriate.

I would like to thank you for having this opportunity to testify. And I would like to thank you for holding testimony here in Bethel. Thank you, sir.

Senator Murkowski. Thank you very much, Mr. Bivin.

I think your suggestion that an attempt be made to clarify 13(a) is appropriate. It's my understanding that the BIA has indicated that they are reluctant to do it, or reluctant to accept the responsibility, or are reluctant to expend the money, which they claim they don't have; any one of a number of reasons. I would be happy to evaluate, through my staff and through the Department of the Interior, the official position that should be able to be reasonably determined from just what the interpretation of the law is as to whose responsibility that may be.

We know and you know that the BLM is under a tremendous requirement under the surveying statewide the transition of lands to the State of Alaska as well. But it is certainly a legitimate question, and I can understand your concern over it.

Are you suggesting that this be included as an additional amendment, or is this something that, in your opinion, it was addressed by AFN in convention was excluded, or can you enlighten us on that?

Mr. Bivin. I really can't enlighten you, sir. I think whatever mechanism it takes to get a clarification on that ought to be taken. If it needs some sort of technical amendment to do so, then I think—well, that's beyond my capability of suggesting the mechanism.

Senator Murkowski. I'm going to use the formality of the Chair and simply ask if the representatives of the AFN have any knowledge of whether that was taken up as a proposed amendment by the AFN, or did it not come up?

Ms. Leask. It's not my understanding that this was included as a proposed amendment, as far as 1991 related. But there are a number of other, what we term technical amendments that we have been putting together that would resolve a lot of different problems, technical problems that different regions have and that we have with the Act that we will be putting together at some point in time. And I would suggest that you could get us language, or at least a short summary of the issue and I would be more than happy to take that up.

Senator **Murkowski**. Well, I would suggest that you collectively get together and decide if you want to pursue it, because it would be much better, I think, to have them all come in under the AFN technical amendments as proposed rather than in something another way.

But in any event, let us know. I'm willing to consider it. And I'm also willing to try and find out, definitively, for you whether it is an obligation of the BLM currently or whether it clearly isn't or whether it is in doubt.

Mr. **Bivin**. We have been in contact with Mr. Kinball of the Alaska Federation of Natives and we intend to pursue this with them.

Senator **Murkowski**. Has the BLM given you any definitive position?

Mr. **Bivin**. They have stated, and I think we have it in writing, that they are not responsible for the homesites.

Senator **Murkowski**. All right. Well, we will check that out for you.

I'm interested in the testimony, particularly of Mr. Fredericks, although you have highlighted a certain point I'd like to pursue, as well, Mr. Bivin. That is the question of splitting off, say, the assets represented by the land, and the other assets by the operating entities of the individual businesses that the group or corporation may have.

Now, if you are to move the land away from risk, you would move it out of the corporate structure?

Mr. **Fredericks**. That's correct, sir.

Senator **Murkowski**. OK. That could be a land bank, any number of things. And then, would there be still stock ownership in that land, or what would the ownership be, tribal or reservation or——

Mr. **Fredericks**. No. I'm very hesitant to say tribal or reservation. I don't like reservations to begin with.

I would rather see it in a co-op or some form like that, where all Natives would become members to the land part; just members. They would have and hold their shares in these other corporations that are now functioning.

Senator **Murkowski**. And a Native that was born would automatically be a member of the land, whatever it was.

Mr. **Fredericks**. Of the land, right.

Senator **Murkowski**. And then from the standpoint of the other operating entities, which are corporations in function, those children would be issued stock as they came into maturity or whatever.

Mr. **Fredericks**. Right.

Senator **Murkowski**. But in order to do that, you would have to dilute the shares of stock within the corporation, or issue new shares, which would dilute the existing shares in any event.

Mr. FREDERICKS. It would dilute to some degree, but very little, if you had a lot of companies, you know.

Senator MURKOWSKI. Sure.

Mr. FREDERICKS. And that is the idea. They want to be only members to the land company. The land would be held and protected at all times. But if we wanted to go into business, we would take that land out. Just like any other business, we're willing to pay taxes on what we develop. There's no question, I think, in the Native communities' mind to pay taxes. But the big thing is a lot of this land is subsistence land, a lot of it was taken for that purpose. And that's the provisions in this amendment, to protect that portion.

Senator MURKOWSKI. Now, under the current law, the land status of the corporations vary, with the regional corporations holding the subsurface, and the village corporations holding the surface.

As you begin to protect the idea that you're developing, do you see any change in the status of the regional corporation, inasmuch as its current holdings are subsurface. Do you see simply the village corporations, in addressing the issue of surface lands, is that what you're talking about? Are you differentiating between the two?

Mr. FREDERICKS. We have to at this time, because, as you said, the regions own the subsurface, and the villages owning the surface rights. We have to at this time. There is a possibility that the region could also put into land banks the subsurface rights, and then develop the subsurface for minerals and so forth.

That same concept can go for the regions.

Senator MURKOWSKI. But it's fair to say from your standpoint that your concern over the land is the surface use of the land for the protection of the subsistence and traditions the people have had of hunting and fishing and using that land?

Mr. FREDERICKS. That is correct. Also for dissenters, Senator. I think every dissenter ought to be paid, and we do have provisions of how that dissenter will be paid.

And I think, in my mind, if there's a dissenter among 1,220 shareholders of mine, say there's 20 or 30 of them, they should be paid.

Senator MURKOWSKI. Paid off.

Mr. FREDERICKS. Paid off. They should be paid.

Senator MURKOWSKI. And surrender their stocks.

Mr. FREDERICKS. That's right. The question is, how do you value the land?

Senator MURKOWSKI. I don't know.

Mr. FREDERICKS. I think there's a provision, Senator, in this that we can assess the land value in a corporation. For instance, timber. We know what the value of the timber is. The question comes up to the Native community or Native corporations now is: how do you value the subsistence areas that they have selected for themselves, what monetary value do you put in that?

So I think there's a mechanism that we can evaluate all the corporations' business entities, and from that then would be paid off the dissenters. I'm all for dissenters, they should be paid. They should get out if that's the desire of the people. And I think we have provisions in these amendments.

Senator MURKOWSKI. I want to thank you gentlemen for your testimony. It's been very helpful in compiling a record. And we wish you, a good day.

Mr. FREDERICKS. Thank you, Senator.

Mr. BIVIN. Thank you, Senator.

Senator MURKOWSKI. We will call on panel 4: Willie Kassayulie. Is Willie here?

Mr. VASKA. I don't think Willie's here.

Senator MURKOWSKI. Sam George?

Mr. VASKA. He's not here, yet, either.

Senator MURKOWSKI. Joe Chimegalnea.

Mr. VASKA. Joe's not here either.

Senator MURKOWSKI. Okay. So panel 4 is not here.

Well, we will then move to panel 5: Tony Vaska, Martin Moore and Edward Hoffman, Sr.

Okay, let's proceed with Mr. Tony Vaska of panel 5.

STATEMENT OF TONY VASKA

Mr. VASKA. Thank you, Senator, and Members of the committee. I have handed you the required 15 copies of my testimony, but I won't read that to you, as it will already be entered into the public record.

What I would like to talk about are the kinds of attitudes that the 1991 Amendments and the Alaska Native Claims Settlement Act seem to be portraying, not only for the State of Alaska, but also within the Native communities themselves.

You have already alluded to the fact that there is no intention of this committee to evaluate the question of sovereignty, not to foster it by these amendments. And you have already alluded to the fact that the intent of the amendments and the Alaska Native Claims Settlement Act is for the benefit of, not only Alaska Natives, but for the benefit of all Alaskans.

The question I have with the—the statement I have with the 1991 Amendments and the Claims Act and the other amendments that have already gone through, both in ANILCA and in the 1976–78 Amendments, point to one thing. They point to the fact that the Alaska Native Claims Settlement Act of 1971 is not a perfact instrument.

And from my perspective, the attitude of the Congress in passing the legislation must be reviewed in its entirety. And that review must include two basic questions that I have alluded to in my written testimony.

The first basic question is whether the Alaska Native Claims Settlement Act, in fact, is just compensation by the United States to Alaska Natives for lands lost?

Certinly, there is a great deal of justification used that the federal government was giving to the Alaska Natives 44 million acres of land and $962.5 million over an eleven-year period.

The other half of the coin from my Alaskan Natives is that that may be true, but in the process, we have lost close to 350 million acres of land in that Settlement.

So, yes, there is a lot of dissension by people, by a lot of Native people who say it was not just settlement, that that settlement did not include the participation of as many Native people as possible.

The second point I want to make about the Alaska Native Claims Settlement Act is that if, in fact, the Claims Settlement Act is social engineering, what is the intent of that social engineering? Is it to take care of people, or is it, in fact, to create corporations that are simply staffed or run by Alaskan Natives to take care of those aspects of the Alaska Native communities?

From my perspective, there's a lot more going on in the villages as far as the settlement of the Alaska Native Claims is concerned that what the 1991 Amendments are trying to do.

From my perspective, the 1991 Amendments are simply corporate amendments to take care of the corporations' interests.

I presume throughout the rest of the day you will hear a lot of concern about taking care of people, and whether, in fact, the Alaska Native Claims Settlement Act did that.

For instance, if, in fact, the Claims Act is taking care of people, why are not the children born after December 18th, 1971, taken care of?

Simply making them heirs to stockholders who were living at the time is not a just compensation to those Alaska Native children.

Because the stock authorized to be issued in 1971 is restricted, who else gets hurt are the elders. Many, many of them have died since 1971, and their compensation by the federal government has been minimal since the Alaska Native Claims Settlement Act has passed.

Unfortunately, how coroprate America works, a settlement of that size, as you know, attracts a lot of people who do benefit, and who do benefit directly and much, much more than I think the majority of the Alaska Natives. And those include such people as bankers, lawyers, accountants. They benefit from the fact that $962 million is shoved into the Alaskan economy and it will stay here, and it has stayed here.

Unfortunately, many of those regional and village corporations are not doing well. But that's how corporate society works in the country as a whole. I think it's justly unfair that the federal government would put out all Native communities and people to the wolves, so to speak. Because that's, in fact, what corporate society does. It doesn't socially compensate the person who has no knowledge, but carries a hundred stocks of regional corporation shares, and a hundred shares of village corporation shares. It doesn't compensate him for very much.

In fact, it puts in jeopardy what is the only thing that he has. And what he has is being part of a Native community, being tied to the land through hunting and fishing.

Now, I don't think that the U.S. Congress or the State of Alaska should be afraid of the fact that Alaska Natives want to take control of their own destiny. And they do that by having the power and the willingness to exercise that power to take control of their schools, fish and game advisory committees. Those kinds of things are important to people who live on a day-to-day basis.

There shouldn't be a fear that the issue of sovereignty is going to take away anything from anyone. In fact, there are many precedents across the country that Congress has recognized and dealt with on an annual basis dealing with Native Americans. Alaska Natives should not be treated separately.

If you look at two examples of a corporation structure being imposed on Native peoples in the Lower 48 and examine closely the consequences, you will find that the corporate structure has been tried in the past and has failed miserably.

The first example is in Wisconsin with the Menominee Tribe. It took a long time for the Menominee Tribe to recover the assets and the land that once belonged to them exclusively.

The second example is the Warm Springs Reservation in Oregon. That was dismantled, corporate structures were setup, stocks were issued to people. But it disenfranchised people who were young, people born after that settlement, and now they're getting back, and Congress has recognized that that structure failed.

I think a lot of the testimony today will be asking you, as Senator from Alaska, representing Alaska Natives, what is going to compensate those Alaska Natives who are not included in the corporate structure; that includes children born since 1971 and the elders who have died off since.

There is an answer out there somewhere, and I know that Congress will have to deal with that, regardless of what the State says, and regardless of how other non-Alaskan Natives feel, that that compensation will have to be there.

From my perspective, I recognize that Congress can recognize the integrity of Native peoples as a Native people. The compensation with the Alaska Native Claims Settlement Act speaks to that.

My point is to encourage Congress to carry out that intent by saying, yes, there are Native people in Alaska, yes, we should recognize the integrity of Native people as Native people and compensate them for that. That compensation gives the Native people the pride to stand up and say, yes, I am a Native person, yes, I can contribute to the American Society, yes, the American society recognizes me as a Native person. And leave it at that. It will work. It's not necessarily conflicting with each other.

You brought up the point that the Alaska State Constitution would be in opposition to giving sovereign tribes the power to manage fish and game.

Well, federal preemptions of State constitutions in other States is rampant in history. The federal government can do that.

The fact that Native villagers want power to manage fish and game is good, I think. I think there are plenty of examples where the management of fish and game by Native people works.

Classic examples in Alaska is the Porcupine, the International Porcupife Treaty between the United States and Canada. The Kuchen Indians from Old Crow in Canada and the Kuchen Indians from Fort Yukon worked closely together to put that Treaty together so that it works to their benefit.

The International Whaling Commission has the Alaska Eskimo Whaling Commission to work closely with it. The Marine Mammal Protection Act exempts Alaska Natives. It allows them to hunt marine mammals exclusively. The Alaska Native Walrus Commission works very closely with the Marine Mammal Commission, which is a Fish and Wildlife Service responsibility. They work well for managing the marife mammals.

In this region, more specifically, the Yukon Goose Management Plan is a fabulous document because it involves Native peoples in villages to work with the Fish and Wildlife Service, the Department of Fish and Game, the California Fish and Wildlife Service to work out details for migratory birds. Those are classic examples of working together, not necessarily carving out an area and saying "this is mine exclusively".

That kind of cooperation is required and it is happening now. And I don't think that non-Natives in Alaska should be afraid of that.

The federal preemption option already exists in Title VIII of the Alaska National Interest Lands and Conservation Act by the fact that it says if, in fact, the State of Alaska does not have certain criteria regarding subsistence, then the federal government can take over.

Those kind of federal exemption options can exist for the management of probably most resources in this State.

What I don't want to see is a corporate structure for Alaska Natives exist in this State that is subject to takeovers by uninterested other corporations in the State of Alaska.

If you read the papers and you read the business section and you see these corporate takeovers, it's easy for a large corporation to come in and buy a small regional or village corporation, very easily. And because the land is tied to the corporation structures, then the land that the Alaska Native people have lived on forever will be lost or will be subject to be lost. And that I find objectionable. And I think that most people who testify today will express to you that losing the land through unfair taxation by local governments or State governments is just unacceptable. Losing lands because corporations go bankrupt is unacceptable.

Those kinds of things Congress has to think about, and think about now, and not simply say these are Native lands and we will give them a status simply to keep them from being taken over on a regular basis or because they go bankrupt. And those lands, I think most people will testify today, are sacrosanct. They are tied in with the people living there and they always will be.

I'll stop there, because I'm beginning to ramble.

[The prepared statement of Mr. Vaska follows:]

Testimony on ANCSA Amendments to Senator Frank Murkowski 7/10/86
Given by Tony Vaska, P.O.Box 1495, Bethel, AK 99559

Senator Murkowski, and other members of the committee, I would like to thank you for making the opportunity available for us in rural Alaska to comment on the proposed amendments to ANCSA. One of the most important precepts of this country I hold most dear is the freedom of expression enclosed in the First Amendment of our National Constitution. The testimony I am presenting is singularly mine, and I thank you for listening.

I would like to talk about integrity and respect of people and cultures, and of the legal and moral obligations that the United States holds for Native people.

There is a long history of the legal and moral obligations that the U.S. Supreme Court points out throughout the short history of the United States. The U.S. Congress has readily recognized this moral and legal obligation over the years, and in my opinion, has gone to great lengths to foster the relationship between the U.S. Government and the various Native American tribes across the country.

Yes, there have been many breeches of the relationship, and history shows this to be only too true. Nevertheless, throughout the history of this relationship, Natives in the United States have, by-in-large, survived in some fashion or another. This desire to survive as Native people is strong. The future of these United States will always have Natives as part of the nation. How the Natives survive is largely dependent on themselves (ourselves), but it can best be accomplished with the help of the United States Government living up to its legal and moral obligations in dealing with Natives.

History shows that the United States has struggled for many ways to meet its legal and moral obligations to Native people. Felix Cohen's Handbook of American Indian Law and David Case's Alaska Natives, American Laws point this out quite abundantly, and clearly, I must say. But, of course, those two references are not the whole story. The two references show not only that the United States has a long history of legal involvement dealing with protecting the rights of Natives, but also, the other half of litigation is that there will forever be the detractors of protecting those rights.

I began this testimony by saying that I would be talking about integrity and moral obligations of the United States to Native people. I think that it is already clear that the legal and moral obligations of the U.S. Congress are present. These public hearings are testimony to the attempt to meet these obligations.

I think that the Congress has a responsibility to acknowledge even more the integrity of the Native people in the state. Let me explain my thought on this: In the Settlement Act of 1971, Congress recognized its fiduciary responsibilities to Native Alaskans by passing what it thought was a fair and just settlement. Today, in the Native community, there is must disagreement about the settlement and its benefits to Native people.

My view is that it is a mixed blessing; and that, unfortunately, there will not be a consensus among the benefactors of the Claims Act. My view is that Congress should recognize the integrity of the Native communities in the state as Native communities, and give real power and authority to those communities to govern themselves.

Tribal self-government is an important concept that the Congress should embrace as a policy directive from recognizing the abilities of Native people to govern themselves. This concept is not new. It has been around since tribes have been around; and it is a concept that the United States in the past, and the present, recognized and used to further the relationship between the national government and the various tribes. There are already many examples of the relationship between the federal government and the Native tribes working together.

Tribal self-government is important to the Native people because it empowers the Native people to handle their own affairs within the legal framework of the federal government. Empowering Native people gives them more control over their lives. Such responsibility does not come lightly on the Native people. Federal recognition of this empowerment will give to the Native people what is inherent in their rights, and it will give them an opportunity to practice those precepts that this country was founded upon---life, liberty and the pursuit of happiness.

How this applies to the Alaska Native Claims Settlement Act and the impending amendments that this committee is presently concerned about is fairly and easily applied.

If the Claims Act is viewed as a just settlement of those other lands acquired through third party negotiations, such as the Treaty of Cession, then there remains the question of equity in the settlement to all Native people of Alaska. If the Settlement Act is just another social experiment on the part of the United States, then a severe injustice has been done again to Native people.

Just as the Howard-Wheeler Act tried to correct what the Dawes Act attempted, what, I ask, is going to change the Alaska Native Claims Settlement Act when Congress realizes that nominal Native control over federally established corporations is simply not meeting the Congressional intent of carrying our the fiduciary responsibility of the federal government?

Most Alaska Natives are tied to the land in ways that corporate entities cannot possibly be ties to the lands. Being tied to the land means living a way of life that is directly dependent upon what that land provides, even on a daily basis, such as some of the subsistence activities' requirements in the villages. By providing the opportunities for Native people to these kinds of land uses, the federal government and the state of Alaska will be more than providing for the welfare of the Native villages.

There are many ramifications to making this decision that I will mention only briefly, but the importance of this concept points to giving people the means to directly make decisions that affect their daily lives. This means local government decisions and the enforcement of those decisions is at the local level: fish and wildlife decisions are made at the local level, land and water use are made at the local level, educational policies are made at the local level, health care delivery is made at the local level, and even policing functions can be made at the local level.

Non-village members need not fear the desire of Native people to control their own destinies. The competition for scarce resources will probably continue for a long time. Legal jurisdictional questions can be dealt with when there are problems that cannot otherwise be settled. These are details that are important, but in my view, they are not as important as the Congress recognizing that in its fiduciary responsibility, it must empower tribal governments to deal with its tribal people.

The voices crying out for help and relief are seeking equity and justice, and the ability to participate in the rewards that this nation has to offer. You have the opportunity to bring forth Congressional action to help Native people help themselves. In doing so, you are further telling the world that the United States does care for its Native people by recognizing that Native people are taking care of themselves. Give us the chance to prove ourselves to you that, in fact, Natives can succeed.

Senator MURKOWSKI. Thank you very much, Mr. Vaska.

Our next witness is Mr. Eddie Hoffman, Sr., and Mr. Hoffman is no stranger to the witness table. We look forward to your testimony, sir. You may begin.

STATEMENT OF EDWARD HOFFMAN, SR.

Mr. HOFFMAN. Well, you know and everybody knows that when the first white man came to the United States, they were nothing but a bunch—they were all Indians. And when they came on, the whites, they took over all the lands in Alaska. And that is not right, they take over the land.

The Native people should be the boss instead of the guy that came in here. You know, I'm deadly against that, you know. And all the cities, you know, the Congress gave the cities—like the City of Bethel, 1,280 acres, which they should never give them nothing at all. That ground rightfully belongs to the people of every village, you know. There is no need of ever giving anybody no 1,280 acres of land, because you give them that land, they're making money on that land and the people that's here don't have nothing.

And you fellows down in Congress, you fellows think you know it all, you know. You make the laws. Some of your laws—I don't go on your laws at all, because they're not right, you know.

We elected you fellows to support us in Alaska and also other places, all the villages and everything else. Sure, you fellows talk good. You know, you go there; I'm going to have a meeting here today, we'll help you out. You make it worse. Even our Senators elected here—Johne Binkley: I'm going to do this, I'm going to do that. Nobody talks about the Native Land Claims, the 1280 acres which should rightfully belong to the Eskimo people all over the State of Alaska.

And they elected you to support them. And you don't do nothing, you guys. You're a bunch of talk, talk, talk. I hate that.

And before 1991, these children, you know, that were born and they don't even have an inch of ground. There was no place in your law that says we will take our children's children, give them a piece of our land. There's no place in there, you know. And that's you fellows' job, you take care of us and our—we ain't going to be here forever. It's the children that's going to take over when we go. And they can be kicked out by the people, you know.

I hate to say this, but, by golly, as their Traditional Chief, I'm here to support them. And I don't want nobody coming in from the States telling me what to do and what not to do. So long as I'm here, I'm going to help them all I can.

Now, you know, election is coming up this year. If you fellows don't do a good job, out the door you go. We'll get somebody in there that's smart and try to help our people.

It's just like the City of Anchorage, you know. I told them guys over at the City of Anchorage, find somebody there from the Cook Inlet on the river front that lived there before any white man come in and they took the whole damn City of Anchorage away, which they have no right to do, you know. That kind of stuff is going on, you know.

Sure, we've got some lawyers there. I sent them to law school. I went to law school myself, you know. But I'm not here to knock down nobody. I'm here to help everybody. That's a bad thing to do, you know.

I wish old Ted Stevens was here. By golly, he was supporting the fisheries, the Japanese from coming over here from Japan. And I guess somebody said they was paying his campaign money, and Don Young, too. And it's not right, you know.

If they want to come over and help us—because they're got their own Senators in their own area anyway to take care of them, you know, I hate that, you know.

If you fellows get elected again, I want to see you fellows go by the book. If we have to make new laws, we'll make new laws for you fellows.

If I find our something funny's going on—I'm going to Washington, DC. I don't have to put a badge on to walk over and see these guys [indicating]. I just walk right in their door. And that's the way to be.

Them other guys they wait—one guys says, oh, you can get an appointement at one o'clock. I says I don't, I gotta leave here tonight, I says, I walk right in on them. And that's the way to be.

You know, I'm scared of this 1991, you know. And if they don't change the laws on our land, nobody will have nothing.

Here's one instance I'm going to tell you and I'm going to tell you the truth. They gave the City of Bethel 1280 acres. And, by golly, there are 20 acres of patent land—patent from BLM, they gave it to them. And then the City took it, you know, and sold pieces there, just to make money on somebody else's land. And we're going to take them to court, you know on that. That is not right for them to do, just because they think they're boss in the City of Bethel. That ain't going to work at all. That's all over the country, you know.

Even up to Upper Kuskokwim. I should have been here a little bit earlier and heard a little bit more, but I had an appointment with the Court at about ten o'clock on a hearing. And they said we had it at eight o'clock this morning. And yet they send me a paper there to be sure and be there. Oh, we're finished. Where were you? And I just flashed a paper to them and I said that's the kind of stuff you fellows are doing like that. When you set an hour and a date for ten o'clock for the tenth, today, I was there. I was there ten minutes to ten.

We've got to do something for our people in the State of Alaska. And we rightfully own this land, you know. They were born here. And somebody else coming out from the States, you know "I'm going to come in here and I'm going to take over this and I'm going to take over that," and never ask permission from the people that was here first. And I don't like that one bit, you know.

I think I'd better shut up. [Applause.]

Senator MURKOWSKI. Mr. Martin Moore here? He is also a member of the panel.

[No response.]

Senator MURKOWSKI. The only question I have of either Mr. Hoffman or Mr. Vaska goes back to the development of the Claims legislation in the 1970's and 1960's. It concerns the question of reservation status, which is what I think Mr. Vaska is generalizing on, which offers the general support of the people without the risk vis-a-vis corporations.

And I think it fair to say that this was at the desire of Alaska's Native people through their leadership to choose the corporation rather than the reservation. At least that's what the testimony, which is quite extensive, shows. That while both were examined, for reasons only known to the Native community, they chose the corporate status. It wasn't something that the federal government dictated.

I wonder if you would care to comment on that?

Mr. VASKA. Sure. I'm doing some legal research on where the conflict of reservation first emerged in the Alaska Native Land Claims hearings, and they date back—the research I've done so far show that in 1986, the concept of establishing a different mechanism for dealing with Alaska Natives then reservations was first introduced. And that came from Senator Jackson's staff aide who said, well, we don't want to do anything with reservations, because reservations, except for a couple of places in Alaska, are not how people live. They are too scattered out. So we need to do something other than establish a reservation system like they have the reservations in the Lower 48.

The suggestion was: well, we're trying to introduce them into the mainstream of American society. And the economic model of the American society was no longer considered to be agrarian in nature, but corporate in nature.

And it was at that time—and I don't remember the staffer's name—suggested that you can include, however vague it could be, that the Alaska Natives can participate in the mainstream society of America by making them shareholders in a corporation.

And I haven't gotten all of the paperwork yet, but it seems clear to me that Congress at the time was searching for a mechanism outside of the reservation system.

Senator MURKOWSKI. So is it your contention that it was forced upon the Native people by Congress rather than having been a choice of the Native people between the corporate availability and the reservation?

Mr. VASKA. The simple answer is yes, But the real answer to the question is, at the time, there were a limited number of Alaska Natives available to Congress to answer the question of what kind of a system you want to be placed in Alaska that would work.

The response by the leaders who were there at the time was yes, we can try that. It was not a clear yes. As a matter of fact, there was some dissension about that at the time.

If you apply it today, it's my personal feeling that you can transfer the lands to a tribal government with powers to control the land and still have the corporations work as a corporate entity.

If you want to use the Indian Reorganization Act as a model—and that's only one option—I think Congress can—Congress is imaginative enough to create a different system other than simply a corporate entity or an IRA entity.

There are ranchereias in California that exist outside the reservation system that Congress has designated are tribal entities, and they work quite well.

Senator MURKOWSKI. Those are land banks that you're referring to in California?

Mr. VASKA. Pardon me?

Senator MURKOWSKI. Agricultural land banks in California.

Mr. VASKA. They are tribally controlled. And the State of California, nor any other private individual cannot touch those lands. They are tribal lands and they stay as tribal lands.

So the two can exist side by side. And if you want to use the strict model of the Indian Reorganization Act, Section 17 of the Indian Reorganization Act allows for the establishment of corporations for carrying out the corporate functions that a tribal government may have.

Senator MURKOWSKI. You spoke of compensation. And you're acknowledging the 40 million acres of land and the roughly $960 million that was transferred during the initial resolve of the Land Claims.

My question specifically is, do you support the amendments proposed by the AFN which would allow the transferring of assets to other entities?

Mr. VASKA. I have a stricter standard for that option than the amendments do. My option would be to—I'm less kind to dissenters in this instance than the option allows for.

From my perspective, tribal entities take care of the tribes. And once that's recognized, then dissenters are taken care of. They may be compensated in other ways than just monetary.

From my perspective, the Claims Act says "here's a bundle of land and money, if you don't like it, we can pay you off, we can buy you off and provide you with other things".

What that does is, it doesn't take away the fiduciary responsibility that the Federal Government has already. Even if I sold my shares in the Kuskokwim Corp. and Calista Corp., the Federal Government still has a fiduciary responsible for educating me, providing health services, it's still there.

And I think that if you give real power and authority to tribal governments at the local level that compensation can be there, because they are receiving the benefits of being a tribal member.

And I think that in the long run the tribe can take care of its members.

Senator MURKOWSKI. So in general, do you support the proposed AFN amendments?

Mr. VASKA. I'm pretty neutral about them. I have not come out one way or another. If I'm forced to answer for corporate entities; sure, we're taking care of corporations that were set up 14 years ago. And we're trying to establish patterns of protection for those corporations and are not necessarily taking care of the integrity of Native people.

Senator MURKOWSKI. Well, I think it's fair that you and I agree that what's before us are simply amendments. The question of taking care adequately of the Native peoples of Alaska above and beyond the issue that's before us is really a question for another time, because it's just not included in this package.

I guess my next and last question would be, do you support the movement of the amendments as generally presented this year? Or do you suggest that more time be given to internal review of the

1991 issue and the other issues, such as just compensation, and that this whole matter be put off?

Mr. **Vaska**. Well, knowing how fast Congress moves with these kinds of amendments——

Senator **Murkowski**. Which is not very fast.

Mr. **Vaska**. It's my personal feeling that passing the amendments and possibly strengthening them is probably the best option. And "strengthening" them means, if, in fact, you're giving regional or village corporations the option to take care of its members, taking care of its members doesn't necessarily mean you dismantle the existing organization so that all of the members in that community are taken care of.

Senator **Murkowski**. Thank you. I have no further questions.

Mr. **Hoffman**. I have one question, if I may.

Senator **Murkowski**. You may make a statement, sir.

Mr. **Hoffman**. Well, you're talking about AFN. Well, I don't go much on AFN's language that they got for 1991. You know, it has to be remoldeled by everybody else.

I had to go—I was in the hospital for two months, you know, and they wanted to take me in a wheelchair to testify last fall, you know. But I've got a couple of good questions.

Just like Lime Village. From Lime Village up, the federal government or the State took over all that property, which they had no right to take, you know, because it belonged to the Eskimos in that area. Also, the same thing happened in the Kolitna River. The federal government took all that and sold it just to make money, you know. And the poor Eskimos that could live there didn't get nothing. And that is not very good either.

I would like to see that the Federal Government don't have nothing to do with all these lands in the State of Alaska, you know. Let the villages that own that property keep it.

Senator **Murkowski**. Thank you very much, gentlemen. I would call on panel 6 after we take a very short break to accommodate the court reporter who has been going steady here since nine o'clock.

[Whereupon, at 11 a.m., short recess was taken.]

Senator **Murkowski**. I will call just informally the witnesses to determine who is here on panel 6. Lewis Paukan, Saint Mary's. Is Lewis here?

Mr. **Paukan**. Yes, sir.

Senator **Murkowski**. And Cecilia Martz from Bethel.

Ms. **Martz**. Yes, sir.

Senator **Murkowski**. Jimmie Larson.

Mr. **Tobeluk**. I am the substitute for Jimmy Larson.

Senator **Murkowski**. All right.

And Phillip Kairaiuak. Is that a pretty close pronounciation.

Mr. **Kairaiuak**. No.

Senator **Murkowski**. What is it?

Mr. **Kairaiuak**. Sounds like Kai-ai-uk.

Senator **Murkowski**. I see. I hope I can remember that. [Laughter.]

Senator **Murkowski**. And William Phillips.

[No response.]

Senator MURKOWSKI. And if there are any more during this break who would like to testify, you should come and see Tony at this time, because I intend to, at this time, take any remaining witnesses and accommodate them, but I don't intend to do it after this, because I hope to conclude the hearing before noon.

Those of you who are coming up, just come on up and you can introduce yourself and we will proceed with panel 6.

All right, Cecelia, you want to go first? We'll let the lady go first. Go ahead.

STATEMENT OF CECELIA MARTZ, ON BEHALF OF ANNIE KINEGAK, MILDRED EVANS, KAREN WATERS, MARCIA CRODA, AND HELEN MORRIS

Mr. MARTZ. I am representing five other people; Annie Kinegak from Akaichak; Mildred Evans from Akaichak; Kasren Waters, Marcia Crodan, Helen Morris from Bethel.

Our groups are speaking on the amendments, the 1991 Amendments. We are in favor of two sections.

The first one is: We strongly support the transfer of land and other assets to the IRAs.

The second one: We also strongly support the transfer of subsurface estates from regional corporations to IRAs.

And we support the above for the following reasons:

Tribal government lands cannot be seized by creditors, and it will also be exempt from taxes.

Tribal government membership will be comprised of our own people, who would then have control over our land, as stated by President Reagan in his Statement of Policy of January 24, 1983; and I quote, "This administration honors the commitment this nation made in 1970 and 1975 to strengthen tribal governments and lessen federal control over tribal government affairs. This administration is determined to turn these goals into reality. Our policy on a government-to-government basis and to pursue the policy of self-government for Indian tribes without threatening termination."

The other quote that I have is from Pope John Paul II, speaking to Native people in Canada in September of 1986. And he said, "You are entitled to a just and equitable measure of self-determination, with a just and equitable degree of self-governing. For you, a land base with adequate resources, is also necessary for developing a viable economy."

The fourth reason we have for that, the two seconds that we support:

We would be ensured of our continuing rights to land, language, culture, and subsistence without fear;

Every Native in the community would be a member of the tribal government. Their descendents would automatically be heirs to the land.

Senator MURKOWSKI. Thank you very much.

Who is the next witness? Please identify yourself and proceed.

STATEMENT OF JOHN TOBELUK, ON BEHALF OF JOHN CHARLIE, NORMA GUINN, AND JIMMY LARSON

Mr. TOBELUK. My name is John Tobeluk, and I'm here to testify on behalf of my group, John Charlie, Norma Guinn, myself and Jimmy Larson.

Land, I believe, is the key issue here. The drive for self-determination, corporations, shareholders, and those that were left out when the December 18, 1971, deadline was made. All of these are based on land.

We are worried about the after-borns not having a say in regards to what happens with our land.

We are fearful about corporate takeover, both internally and externally. Internal corporate takeover by fellow, rich Natives buying off shares from poor Natives; external corporate takeover by non-Natives. And, therefore, controlling the corporations and their assets, which is mostly land.

We are fearful of losing our lands through taxation. And so, too, with loss of land by Natives who use the land as collateral and having the inability to pay off debts, and, thus, losing the land.

Our view is that it would be safer to transfer corporate-owned land to tribal governments. Again, I stress that the land is the main issue here.

If the land, which is used as an asset by our corporations, were transferred to tribal governments, it would secure ownership by Native people for all times, and the fears of losing the land by these indigenous people would be meaningless, as the land would be held under trust forever.

Senator MURKOWSKI. Thank you, John.

Our next witness. You may proceed.

STATEMENT OF PHILLIP KAIRALUAK, ON BEHALF OF ELIZA LARSON, AGNES HOOPER, AND GRACE EKAMRAK

Mr. KAIRALUAK. Camai, Senator Murkowski.

On behalf of my group, Eliza Larson of Oscarville; Agnes Hooper of Tunuak; Grace Ekamrak of Akiachak; and myself, Phillip Kairaluak, of Chefornak, welcome to Bethel.

Senator MURKOWSKI. Thank you.

Mr. KAIRALUAK. On December 18, 1971, Congress passed the ANCSA law.

Ever since that law was passed, things have not really improved. The unemployment rate is still high, and subsistence activities are very much the same.

Our corporations are not doing good. My corporation only gave me a $20 dividend check, and that was the only one I ever got.

I realize Congress tried to help us Natives get a piece of the American dream by providing us with land and money to start off, but with very little resources, our corporations are not making for us. ANCSA did not work as it should have.

If there is going to be taxation, the corporations will not survive and they will go bankrupt.

If our corporations are bankrupt, there is a chance of corporate takeover. What good would our corporations do if it is not making money for us Natives?

We must transfer our corporate assets to tribal governments. It will ensure a proper balance between cultural traditional use and development for economic gain.

Thank you.

Senator **Murkowski**. Thank you very much.

The next witness, please.

STATEMENT OF SAMUEL OSCAR, ON BEHALF OF MARTHA MAKUSAK AND DIANE BRITTON

Mr. **Oscar**. My name is Samuel Oscar.

Senator Murkowski, on behalf of Martha Makusak of Cooper Bay and Diane Britton of Gwent Cove, I would like to welcome you to the Native community of Long Creek.

We, as an indigenous people, believe our children, who are or will be born after December 19, 1971, should naturally be granted the rights and privileges of shareholders.

Our children cannot be deprived of any cultural benefits, since being born Native does not disclude them from all rights that we now have.

Excluding them from becoming shareholders will be like saying they do not exist, and that they do not have no cultural identity.

This situation will create emotional and physical breaks between brother and sister born before and after the fact.

This type of discrimination exists between the white people and the Black people before the Black people were recognized as human beings, with the same rights granted to the white people by the Constitution of the United States.

The Articles and Amendments of the Constitution of the United States clearly define the rights of citizens to life, liberty and property, and clearly states restrictions of any State's depriving any person of these rights without due process of law. And the Congress of the United States, on December 18, 1971, passed the Alaska Native Claims Settlement Act, empowering us, the indigenous people, to form corporations to regulate and govern the lands and share the benefits we now enjoy. We believe we have the right to govern the destiny and the dignity of our lands and our people.

I would like to add my own personal comments.

Senator **Murkowski**. Please proceed.

Mr. **Oscar**. But they were so well-put by Mr. Vaska and Mr. Fredericks, concerning our lands and the corporation models made by the white people and were forced upon us. And these do not work in the Lower 48. They do not work for us.

So I believe that it is in our best interest that Congress recognize us and come here to us people and ask us—not tell us, what we need to do in order to protect ourselves and our children.

I will wait for your questions, if you have any. Thank you.

Senator **Murkowski**. Thank you very much, Sam Oscar.

Our next witness is Louis Paukan.

STATEMENT OF LOUIS PAUKAN, ST. MARY'S NATIVE CORP.

Mr. **Paukan**. My name is Louis Paukan, and I am representing St. Mary's Native Corp.

We are in support of the Alaska Federation of Natives 1991 legislation. We ask your support in this legislation to pass.

Like all the other village corporations, we are concerned with the effects 1991 will have with the present Alaska Native Claims Settlement Act of 1971.

St. Mary's Native Corp. was formed under the Act. We are committed to our shareholders to survive. The Alaska Federation of Natives Resolutions wants the Congress to pass the bill to enable the regional village corporations to decide by a shareholder vote if they want to open their stock to the public or to continue the stock protection.

The AFN legislation's purpose is for land protection, tax protection and the ability to transfer lands to tribal governments, nonprofit corporations, and land trust.

St. Mary's wants land protection and tax protection. We feel once we have gotten land conveyed to us, the possibility to lose our lands after 1991 will be high, due to eventual taxation.

Our relationship to our lands is strong, not only as a corporation, but as Yupik Eskimos of Southwestern Alaska. Once we lose our lands, we lose our culture.

Unfortunately, the Alaska Native Claims Settlement Act is such that after 1991 our stock and land is open to the public.

By doing this, Congress is putting Alaska Natives into the melting pot. The 20-year protection is too short a time to reorganize and get a firm ground on our parts to survive.

We strongly feel that Congress should support the AFN legislation. We feel it is Congress' responsibility to the Native peoples of Alaska to survive and not bury.

We feel it is your commitment to the aboriginal people of this State.

Thank you.

Senator MURKOWSKI. Thank you very much, Louis. I think that was a very good statement.

I'm going to ask a few questions at this time. The first question will be to our last witness, Louis Paukan.

You indicate that your concerned that the 20-year period is too short. And that has been supported by most of the testimony at the previous hearings.

Another concern was that of the elders, who would not, theoretically, be able to use their stock as represented, other than perhaps dividends being generated. Then there is some dissident minorities that want to have their stock and be able to sell it, trade it, borrow against it or whatever.

I'm wondering if you would care to share with us any opinion you may have as how these dissenters should be taken care of?

Mr. PAUKAN. We have been discussing the dissenters' rights with the St. Mary's Native Corporation as a corporation, and how to deal with that.

We have no direct result concerning that question. It's an ambiguous question. It's an individual's choice.

Unfortunately, through the Act, through ANCSA, the distinguished Congress has said you are a native because you are a shareholder, you own stock; if you don't own stock you are not Native. That's all.

Unfortunately, you know, we'll have to deal with that eventually after 1991 or prior to.

Senator **Murkowski**. I think it was that if you were a quarter-Native you qualified as a Native to get stock in the settlement.

Mr. **Paukan**. You qualified, yes.

Senator **Murkowski**. I was just concerned with any recommendation you may have had with regard to dissenters' rights, because it is a concern as we explore this legislation. And it's something that has to be addressed.

Mr. **Paukan**. It's something that has to be addressed, that's a fact. But that can break a corporation and that can make a corporation also. I mean, that's our concern.

Senator **Murkowski**. I agree with you.

There was a reference by Mr. Larson's testimony to the fear of losing the land through taxation. And I would like also to refer to the testimony of Phillip. He stated if there's going to be taxation the corporations will not survive and they will go bankrupt.

I wonder if you feel that the proposed amendments, which now state that the land shall be taxable if it generates revenue—previously the land would have been taxable 20 years after having received the land—give adequate protection to eliminate the thought that the land might be lost through taxation.

My question is, do you basically support the AFN's addressing the issue of taxation?

Mr. **Kairaluak**. Personally, I don't know which way to go, because, since I'm real young, at the age of seventeen, I'm still growing up and learning new issues.

As I was growing up, there were certain issues towards I live today, and it's getting harder and harder choices.

And personally, I think people can live together. That there are two persons in me; one a U.S. citizen, and the other is an Alaskan Native. And both of them kind of disturbs me looking at the Land Claims. And sometimes I don't like to face it, but I have to look at it and its reality.

Imagine going back 500 years from 1992 to 1492, a time when Christopher Columbus discovers America. Some people along the way tried to tell other people, hey, I don't think we should do this to these indigenous people, because they have their own lives. And history will repeat itself again if that same thing happens to us.

And I like being an American, I like being a Native. I think both can happen at the same time.

Senator **Murkowski**. That's a very good statement. John?

Mr. **Tobeluk**. If the lands that are generating profit, if those lands, like a little lost here, a little lost there, combined, that lost land could amount to a lot, you know, a lot of land. And that's like, you know, all I've been hearing about since, when, 1971, I think it was I first heard of it and I was a little kid then and I thought, who gave these outsiders rights to come in here and, you know, like coming in—like Phillip said, when Christopher Columbus supposedly discovered America, you know, it was found already by the indigenous people of America. What is discovered, need not be discovered, you know.

Who gave these non-Natives, the Congress, the State the right to say, okay, you people that have been living here since time immemorial, here is land for you. We will keep this.

I believe this land should be in our control. We should have a say in every inch of it.

Senator MURKOWSKI. My question, specifically, is whether you feel the AFN adequately addresses the protection of the land from the standpoint of taxation. Because what your statement indicated was a concern that you would lose the land if it was taxable. And the proposal before us is a very simple one. It says that if the land produces revenue, then it will be taxable. Obviously, land that does not produce revenue would not be taxable.

And I was interested in your opinion of whether you felt that was adequate.

Mr. TOBELUK. It might be good to go with the AFN's resolutions on that. Then, again, depending on how much land, you know, generates revenue.

Senator MURKOWSKI. I wonder, Cecelia, if you have any opinion on the issue of the taxation of land as proposed by the AFN amendment?

Ms. MARTZ. I do. What I would like to question is, what do you mean by lands that generate revenue?

Senator MURKOWSKI. Lands that would be improved.

Ms. MARTZ. For instance, in my village corporation, the only land that may be giving a little bit of revenue but not enough for taxation is that 900 square feet around the store, and all the rest is subsistence land.

So my question is, Would that little area be taxed, or would the whole thing be taxed?

Senator MURKOWSKI. I don't know. This is for the residents of Native Alaska to determine. Because the proposal is that if it generates revenue it's taxable to whatever local taxing body may exist. If your village would form a taxing unit, why, yes, it would be taxable.

Let's look at an example. If you have some timber land and you cut the timber, the land is generating revenue if you sold the timber and you got money, do you feel you should pay taxes on it. If you have developed a gravel pit and were able to sell the gravel, or if you found minerals and sold the minerals, this is what the general concept of development is considered here.

The law now says it's all taxable in 20 years. What we're proposing is a change in the law that simply says it's only taxable if it produces revenue.

I agree with you, there is a substantial need for definition of what constitutes revenue or development.

Ms. MARTZ. One concern that I have on that is if that timber land or whatever that land, is also subsistence area of the people?

Senator MURKOWSKI. It wouldn't be taxed for subsistence use. It would only be taxed if it generated some other revenue.

Ms. MARTZ. But still, the people that are subsisting on that land could still use it if they can't pay taxes in the long-run. Even if they generated revenue, that revenue wouldn't be enough to pay the amount of taxes that the State or whoever is taxing and they still have that chance of losing that land, not only as revenue generating land but also subsistence land?

Senator **Murkowski**. You expressed a very appropriate point from the standpoint of rural concerns. Yet in some areas of the State there is Native land within the borough of Anchorage that receives whatever benefits the borough might provide but is nontaxable. That's true in Juneau in the gold belt area, it's true in Fairbanks with Doyon and various other areas. And the question is, should it, if it generates revenue, or if it's subdivided, or it's improved, be taxable? Because it is not subsistence land, obviously, it's potential commercial developed land. So that's where this whole question comes in.

Ms. **Martz**. I think it should be clarified though that subsistence and land that is only to get revenue should be separated out, not both at the same time.

Senator **Murkowski**. I think that's a very good suggestion.

I have no further questions for panel 6. You may be excused gentlemen and lady.

We will go back now, because I think we have some folks that have joined us since we have gone through the list. I believe Sam George is here. Is Willie Kassayulie here?

Mr. **Vaska**. He's not here, sir.

Senator **Murkowski**. Okay. We have Sam George with us. Is John Hawk here?

[No response.]

Senator **Murkowski**. Gene Peltola, I gather, is going to submit written testimony. Is Martin Moore here?

[No response.]

Senator **Murkowski**. Mr. George, you're a member of panel 4 with Willie Kassayulie and Joe Chimegalnea. We welcome your testimony. Please proceed.

STATEMENT OF SAMUEL J. GEORGE, PRESIDENT, AKIACHAK, LIMITED

Mr. **George**. For the record, my name is Sam George. I am presently the President for Akiachak, Limited, an ANCSA village corporation for the Native Village of Akiachak, Alaska.

I will briefly testify with respect to the Alaska Native Claims Settlement Act of 1971 and the proposed Amendments, as outlined in substitute bill for H.R. 4162, introduced by Congressman Young.

The Alaska Native Claims Settlement Act of 1971, as mostly everybody will agree, is overly-complex and hard enough for an average Alaska Native to understand thoroughly.

ANCSA, as presently written with all of its flaws, dooms to fail unless the corporation is very successful in making money to meet all of the expenses a corporation has to incur to survive.

The settlement itself fails to provide adequate land protection, which is the basis for the survival of the Alaska Native people as distinct aboriginal peoples with rights to retain their original identity as indigeneous people.

The Alaska Claims Settlement Act of '71, as enacted by Congress, is an injustice to the Alaska Native people by the U.S. Government in its failure to recognize the tribal status of the Alaska Native people to begin with.

The corporate structure, as mandated in the Act, itself puts the very core of the settlement, the land in jeopardy without due consideration to how much value the Alaska Native people place on it for their very basic survival.

To correct the injustice that was done to the Native people in the Settlement Act, Congress should make a concerted effort as a government in making an honest land settlement with its aboriginal people for the sake of history.

By "injustice," I mean that a lot of the land was basically taken away by the government without involvement from the people. And, as a result, we end up having a settlement that was inadequate, and the majority of the Native people, especially the older people that weren't involved and the younger generations that were too young to be involved weren't aware of what exactly we got into, especially corporate structure that I'm sure if you look at the statistics have shown that a lot of them have not made any money. And I would safely say that, as history goes, we will see a lot of the corporations, go under. And, as a result, the land itself would end up being lost to other interest groups.

The history of the U.S. Government in dealing with the indigenous people, should not be repeated if it is to be a world leader in being a democratic society that provides equal opportunity to its people.

The United States Government should first acknowledge the fact that there are indigenous people in Alaska that deserve a special attention with tribal status.

The ANCSA Amendments would clearly spell out that the Alaska Native people have a special political relationship with the Federal Government as any other Indian tribe in the Lower 48.

The Savings Clause should be included in the Alaska Claims Settlement Act as an acknowledgement by the U.S. Government that the Alaska Native people have the tribal status as any Indian tribe.

I would like to state that the present language, as far as the language introduced by Congressman Young, supported by AFN does not go far enough as far as stating that there are such tribes in Alaska that should be at least not at least acknowledged, but recognized by the U.S. Government since the courts have already determined that there are tribes in Alaska.

The tribal option, as continuously advocated by the strong believers of the Alaska Native movement for tribal self-government, needs to be provided if the ANCSA Amendments are to be passed to correct an injustice that was done in 1971 with the passage of the Act in question.

The language should be explicit Land Settlement does not in any way infringe upon the rights of the Alaska Native tribes to govern themselves as should be at the first place.

The ANCSA, with its Amendments, should be cited to be a Lands Settlement with the Alaska Native tribes rather than the corporate land settlement as it exists at this time.

The land protection that the Alaska Native people deserve to retain can only be satisfied with tribalization of the lands that are now held under the corporations that are vulnerable to lose the land by taxation or any other means that exist today.

The land should be returned to the original owners without questions or reservations that now dooms ANCSA by means of stockholders' interest created by the Act.

The elimination of the stockholders and retention of the tribal status of Alaska Natives will resolve the problems that are in the realms of the Settlement Act.

The retribalization will solve the problem of stockholders' right, land protection, after-borns, and all of the mess that was incorporated in the Act.

Lastly, I would like to plea to the United States Congress to correct an injustice that was done to the Alaska Native peoples as a result of the passage of the Alaska Native Claims Settlement Act of 1971 in robbing us of our land that was originally given to our people by the Creator.

ANCSA should be settled based on the political relationship that exists between the Alaska Native tribes and the U.S. Government as a whole. The Land Settlement Act should be based solely on the wishes of the Native people rather than any other interest group that may try to dilute the purpose of the settlement for the land.

Basically, during my recent trip to Washington, DC, there is, apparently, a move in part of the government that these amendments should be solely based on our Alaska congressional delegation.

I strongly feel that this settlement should be dealt with in part of the government as a government with the Native people.

I would recommend that the Committee make sure that, you know, whatever the Native people request be incorporated in the Act rather than any other interest group, like the Sierra or whatnot.

But basically, that concludes my testimony.

Senator MURKOWSKI. Thank you very much, Sam.

I might just state that the situation we have before us covers amendments only. And to suggest, in all honesty, that I could, or any member of the delegation, or for that matter, Congress at this time could consider any further settlement I think is unrealistic. I do appreciate your opinion and your desire. But I think in fairness to you and others here that I honestly evaluate the situation before us, and it's simply to address these 1991 amendments in their current form and take your testimony with regard to how you feel on that issue.

And any further consdieration would involve, obviously, a separate issue, a separate series of hearings, separate legislation and so forth. I'm sure you're aware of that.

Mr. GEORGE. Yeah. Basically I'm aware of that, but I still believe, you know, that Congress on the whole should make sure that this settlement be a just settlement, with consideration that, you know, whatever was done in 1971 has already been done.

And, as far as the Native people, in general, I don't know if I would express the opinion of the majority of the people, but those of us that believe in Native self-determination regardless of what the U.S. Government has to say, will continue to strive for what we want. And whatever settlement can take place, I want to save my land, regardless of what Congress might have to say about it. You know, I can go at any time I want and take what I want. And if the government wants to stop me from doing it, then they might as well try it.

That would conclude my statement as far as I'm concerned.

Senator **Murkowski**. Thank you very much.

We have, I think, four more witnesses to be heard from at this time; Joli Morgan, Clara Kelly, Myron Naneng, and Moses F. Peter.

I assume that there are no others that wish to testify.

[No response.]

Senator **Murkowski**. This last panel will conclude the hearing record.

You may proceed in any manner that you wish. Clara, would you like to go first?

Ms. **Kelly**. Okay.

STATEMENT OF CLARA KELLY

Ms. **Kelly**. Good morning.

What I would like to say is not specifically related to ANCSA, but to something that I think is extremely important.

And it is, first, we do not have Native representation at the Congress level.

Second, you, as Congressmen, have been elected by Alaskans to be our representation and our representatives.

Third, you have a claim to help us with many of our needs. And we are grateful, I'm sure.

During the election times, I hear many people, many hopeful candidates running around saying to many people in the area and elsewhere, saying "elect me and I will do it for you. You can get roads, televisions and many things that you are needing right now. And if you elect me, I will do it for you".

However, I have not heard anyone say, "elect me and I will work with you to see how and what we can do to work things out that are needed by your area or by you."

Granted, our Congressmen, Senators and Representatives are capable to assist the Alaskans, but are they capable of really seeing our needs? Are they able to hear what we need?

Many times our needs are not what others perceive them to be. Our needs are to be encouraged and invited to become self-asserted, self-government, self-governed and to recognize self-identity as a group.

In other words, we need room to develop our own. We have capabilities for self-help. What we need is assurance from the government that we will walk hand-in-hand; or, even better, invited by the government to be the leaders and not so much to be led.

Our young people in positions that they can look up to, and examples as incentives to achieve.

Thank you very much.

Senator **Murkowski**. Thank you very much, Clara.

The next witness?

STATEMENT OF JOLI MORGAN

Mr. MORGAN. My name is Joli Morgan. I'm a resident of Bethel and have been a resident of Alaska since 1967.

My wife is Eskimo. I have one son that is a shareholder and one son that is an after-born.

Terms such as sovereignty, paternalism, self-determination, dissenters' rights and Indian Land are loaded with emotions for both Native and non-Native people.

These words obscure the major issue of ANCSA of 1991. This issue is: will the Congress of the United States allow legislation to stand or pass that will continue the erosion of Native land ownership?

History shows that in 1492, Alaska Native people occupied and owned as a people 100 percent of Alaska. By 1972, with the passage of ANCSA, Native people owned 10 percent of Alaska. In 1992, stock restriction will have been lifted, and the 10 percent ownership of land by Native people will be up for grabs

The Eskimo, Indian and Aleut people are a national treasure. They are more important than ducks or fish. Yet, ducks or fish receive more protection under the Federal Government.

When you think of Alaska you cannot help but think of Native people. Even if you take a narrow, hard-nosed business point of view, Native people have a commercial value, a tourist value, if you will, only if they exist as a separate, recognized indigenous group of people.

While Congress and the federal government have a responsibility to protect the rights of individual Native persons, the Congress and federal government have a greater responsibility to support, protect and sustain the Eskimo, Aleut and Indian people of Alaska as a unique group. Protection of the land is synonymous with protection of the Native people as a group.

The 10 percent Native ownership of the land must never be allowed to be fragmented. The good of the whole, the group, the tribe, must take precedence over the rights of the individual.

Congress should not allow any Native land to be at risk. The goal of a for-profit business corporation may be directly in conflict with the survival of the Eskimo, Indian and Aleut people as a culturally identifiable group.

In such a case, the corporation must be allowed to fail, if it means the Eskimo, Indian and Aleut people continue to survive on their own land.

In school we all learned a poem by John Donne, although it was written about England, it applies to Alaska. In the poem he says that no man is an island, separate. Each is a part of the whole. He mentions that if a piece of England falls into the sea, England is less.

I believe that if a piece of Native land falls into non-Native hands, the Native people are less.

In 1992, we will celebrate the 500 years of America being discovered by Christopher Columbus. We know that in that 500 years we, as a white people, have swept across North America and have taken Native land by treaty, purchase and conquest.

John Donne asks for whom the bell tolls? The bell tolls for us. And we, as white people, as Representative Young and Senator Stevens and Senator Murkowski and myself and the other people here, we must insist that the land of Native people be protected.

Senator **Murkowski**. Thank you very much.

The next witness.

STATEMENT OF MOSES PETER

Mr. **Peter**. My name is Moses Peter. I have to tell you bluntly, to make it short, that the ANCSA law is detrimental to my people. And here's the reason why:

No. 1, ANCSA was force to Natives;

No. 2, the Federal Government did not ask for acknowledgement of this Act;

No. 3, under the ANCSA—lands under ANCSA, that is our lives can be taken away from us. In other words, there won't be no protection for our land;

No. 4, under the law, our children are no longer Natives. And this is why this ANCSA law is detrimental to my people. And it will be, no matter how you—I don't think that there's any way that you can fix it. Our culture is much different from yours. You know, I can't live like white people like you and you can't live like me.

So you cannot impose anything that is your culture. I cannot accept that.

Thank you.

Senator **Murkowski**. Thank you very much, Moses.

Our last speaker is Myron Naneng.

STATEMENT OF MYRON NANENG, VICE PRESIDENT, ABCP

Mr. **Naneng**. Good morning. My name is Myron Naneng. I'm the Vice President of ABCP. ABCP will be submitting a written comment.

Senator **Murkowski**. All right. You have two weeks. The record will be open for two weeks.

Mr. **Naneng**. Yes. And I'm also the President of Sea Lion Corporation of Cooper Bay, an ANCSA corporation formed under the 1971 Act.

My comments are that the December 18th, 1971 Act, formed a class of Alaska Native citizens, they're called shareholders.

The after-borns, including my children, are not included in that class of citizens. And they may not even derive or get any benefits from the ANCSA-formed corporation. That is one of the fallacies of the Alaska Land Claims Settlement Act.

Now legislation is being proposed to make amendments to the after-borns. Are we as shareholders going to be voting to give benefits to our own people, our own blood? What right do we have to do that? Don't they have as much right as we do?

They should be shareholders. They're Native people like we are. Now, benefits are being lost to them. Every time you bring one kid to the hospital now, they want to make sure that you have insurance, because that child is not enrolled in the Native corporation. That is a fact of life today. Where before, five years ago, any one of us that went up there, we did not have to show a form. We went in there and were provided service.

The other major issue is land. The villages, including my village, want to protect the land. However, the majority of the villages got the full benefits of the Alaska Native Claims Settlement Act. They got fee simple estate to whatever they selected.

There are some villages that are restricted of ownership of the land on fee simple estate, and those villages are within the Wildlife Refuges that existed before the December 18th, 1971 Act.

They may want to make economic development to employ their people, but they can't do that because they are restricted by 22(g), which states that before you develop, lease or sell that land to anybody, Fish and Wildlife Service has the first right of refusal.

Now, they're going to be putting more restrictions on the ownership of those lands through regulations by the Fish and Wildlife Service.

Is 22(g) being protective of those village corporations, or is it a detriment? That is one issue that should be addressed that's not included in the 1991 issues, and it's going to affect the villages all the way from Kodiak all the way up north to Barrow.

And if the village corporation transfers that land to a tribal entity, which they have as much right to do today, will that restriction of being able to use that land for subsistence, if subsistence is regulated by the Feds, will the subsistence use of those lands be restricted by the regulations? Which is going to happen next year.

And I'm sure that the tribal entity will be more able to provide better protection of the resource than the Fish and Wildlife Service will be if they put those restrictions on.

The other thing that I see here is under page 19 of the Senate bill 2065, Section 7(a), Subsection (a)2; which says:

> The Native Corporation may convey some or all of its assets, including title to the surface, or subsurface estate of land for any interest therein to a qualified transferee for no considerations or any considerations that the shareholders may approve.

Subsection 2 says:

> A qualified transferee entity is an entity organized pursuant to or recognized by State or federal law.

Where in the State Constitution or in State law does the State of Alaska recognize the Native people? And it's written in here in the proposed legislation:

> The State of Alaska does not recognize any Native organization except if it's incorporated through its State rules.

A tribal government is not recognized by the State of Alaska. Recognition has been pursued by the tribal entities, but the State does not recognize them because they're restricted by their constitution.

And it says further here:

> That the members should be composed of persons whose interest in the entity is not transferrable.

You know that any organization recognized by the State can transfer their ownership of any stock or whatever they have to anybody that they want to under the State law.

And in addition it says there in Subsection 3:

In addition to the authorities and powers vested in such entity by the State or Federal law, a qualified transferee is authorized to—and it keeps stating "the State".

The State of Alaska does not recognize any solely Native organization. And I think that language should be corrected as well. Because only the federal government, as I know it today, recognizes the tribal—or a lot of different laws have stated that they recognize the tribal organizations within the State of Alaska, but the State does not, unless they're being imposed by the federal law to recognize the IRA of Tetlin, Metalakatla, or Arctic Village in Venetie.

And those are things that I feel should be corrected in the legislation. If the State is going to recognize it through this legislation, I think it should be kept in there. But know that the State does not recognize it, so I think that should be corrected.

Senator MURKOWSKI. Thank you.

You, of course, recognize that what we have before us is a matter of federal legislation. Your contention that the State recognizes something, would have to be addressed by your State legislature and your elected State representatives. I would have no authority, nor would our committee, in any matter relative to the State.

I think in the State Constitution, I'm sure of it, there is recognition of the Native people of Alaska and their constitutional guaranteed rights as citizens and as Alaskans. But I think you're also correct in that there is probably no reference to individual Native tribes.

I only have one question of this panel—and I'm sorry that I'm coughing, but I haven't been able to shake this cold since I traveled all of the State this last week—are there any members of the panel who do not support the AFN resolutions that are before us and that are the top of discussion and consideration at this hearing in Bethel today?

Would you care to elaborate, Joli? This is the only real question that we're going to reflect on when we go back, because that's the only business before us, and it's the busifess that has passed the House Committee.

In fairness to everybody out there, there are certain limitations, simply because the legislation was introduced, it passed the House committee, it's on the Floor of the House and we're taking it up in the Senate. The other areas we have heard statements on are valuable testimony, but the question is simply on these resolutions.

Mr. MORGAN. The trouble I have with the AFN resolutions are this vast menu of options that they offer. Somebody, I think, told me it's, what, at least 250 individual decisions that people would have to vote on. I'm a very conservative, paternalistic-type of person, I guess.

I don't believe that the people, regardless if they're Native people, should be allowed to vote, if that vote is going to mean that they will lose their land.

I don't think at the present time that that should just be allowed to happen. So I don't agree with the AFN position that all the village corporations and all the regional corporations can just kind of vote as what they want to do.

It's only on the land issue that I guess I'm concerned about that the land should be taken out of that. The land should be protected, it should not be at risk. It should never be allowed to come to a vote of "should we give up our land; should we sell our land; should we offer our land as collateral".

Senator **Murkowski**. Well, I think one can interpret the AFN resolution to provide that option in the sense of the specific wording that allows the transfer of assets to other entities. That gives the authority for any corporation to initiate whatever protective action it wants by taking it out of a corporate status and putting it into a reservation status.

Mr. **Morgan**. I guess the trouble I have with that is it also allows them to leave it within the corporation and that land becomes at risk in 1991.

Senator **Murkowski**. Well, the amendment that we have before us is to extend beyond 1991 the non-transferability for an indefinite period of time. But it does leave it up to the choice of the corporation to make that determination. And the corporation is made up by the people and they will express their will. And you have spoken your conviction that you don't think the people ought to have that authority, and I appreciate that opinion.

Mr. **Morgan**. I live with one of those people, my sixteen-year-old son. And he has, unfortunately, no concern for the land, and all he's looking for is to sell his stock and get that money.

Senator **Murkowski**. I appreciate that concern.

I want to thank those of you who testified. I want to thank those of you who have appeared this morning to observe the process.

Obviously, our purpose in setting this hearing in Bethel was to accommodate the opinion and testimony of the people of this area. We were asked to come over here and hold a hearing here because it's important that we have your input. I think it's been very helpful in compiling our record that we have your expressions and your opinions. I want to assure you, I value them and will share them with my colleagues in the spirit that they were presented here.

I would advise others who had intended to testify and, for various reasons, couldn't that the record will remain open for two weeks. You may submit written testimony. It will be included in the record in its entirety. And we would very much encourage that because it will give some of you an opportunity to observe this process and state your opinions.

I would caution you on one thing. If you can keep your written testimony, in the area of the subject matter that's before us. It would be most helpful because, obviously, that's all that we are going to consider, since that constitutes the legislation that's before us at this time.

With that, again, let me thank you. Let me thank our court reporter, Marcia Mayr; and my colleagues, Tom and Tony.

The hearing is concluded. The record will remain open for two weeks. We wish you a very good day and a pleasant summer. Thank you.

[Whereupon, at 4 p.m. the hearing was adjourned.]

[Committee note.—Due to the voluminous nature of materials submitted for the record all additional statements and letters have been retained in subcommittee files.]

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